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**BENGAL**  
**THE COMMUNIST CHALLENGE**



BENGAL  
THE COMMUNIST CHALLENGE

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C. R. IRANI



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## **P R E F A C E**

IT IS symbolic that the Indian National Anthem is in Bengali, for Bengal has contributed a great deal to the rest of India. That she has not always been understood or appreciated is of no lasting consequence. In literature and music, in dance and drama and in intellectual pursuits generally, the Indian heritage would be greatly the poorer without Bengal's outstanding contribution.

Nor is this all. In trade and commerce and industry Bengal's share has been no less. It is an intolerable thought that all this and the values of liberty and freedom and constitutional government, so highly prized and carefully nurtured should now be in danger of disappearing behind the curtain of an alien and foul tyranny. It is more than approaching danger, we are in the midst of it already.

Sarojini Naidu once painted this luminous picture of hope and compassion. "Lamp in hand he went out not alone. On the way the lamp went out and so he fell. Will you not in kindness take his hand and raise him up. Will you not in mercy wait for him one moment friends. Let him kindle his lamp from your own light. Let him go forward holding your hand. If you leave him here in the mud in darkness, he will forever remain plunged in the darkness of night."

Bengal is not so helpless as the man who ventured out lamp in hand in this beautiful imagery. That she is today plunged in the darkness of night is unfortunately too close to the truth. In offering this analysis, at least one student of affairs would wish to assert his faith that if we all pull together the darkness shall be dispelled. The values of the human spirit for which Bengal has so long been famous and which are a part of the Indian consciousness, shall assert themselves. Thus will break the dawn.

*Calcutta,  
November 20, 1967*

**C. R. IRANI**

## **A C K N O W L E D G E M E N T S**

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**C. R. IRANI**

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PART I

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*SIGNPOST TO REVOLUTION*

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## 1. The Stage is Set

OUR STORY BEGINS in the weeks and days before the General Elections of February 1967. The situation in West Bengal seemed tailor-made for confusion and chaos. The Congress Government of P. C. Sen felt itself increasingly isolated from the people. Ministers were unable to address meetings and move freely without large police escorts. Corruption and nepotism were rampant. Widespread disorder prevailed. The Communists had already shown that they could, at will, call out the mobs and bring all productive activity to a standstill, culminating in a highly successful one day strike by the Government's own employees by the novel method of mass casual leave. The picture of a weak and corrupt government was complete.

Until September 1965 the President of the ruling Congress Party in West Bengal was Ajoy Kumar Mukherjee, although since the death of Chief Minister Dr B. C. Roy, Atulya Ghosh was in undisputed command of the organisation. When Ajoy Mukherjee's home base in Midnapore District was threatened by Atulya Ghosh's followers he decided to resist, and for the first time was able to identify and denounce the corrupt and high-handed manner in which the organisation was being run. He was insulted and expelled from the Presidentship of the State Congress at a meeting on 11th September 1965, where a resolution moved by P. C. Sen was adopted without opposition. Ajoy Mukherjee left the Congress, and with his followers started the Bangla Congress (Bengal Congress) claiming that he was the true Congressman and his Bangla Congress, the real Congress. The election manifesto of the Bangla Congress proclaims that they "believe in democratic socialism" and stresses repeatedly that corruption is the "basic cause" and the "major problem" in all

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*West Bengal's difficulties. It is quite clear that they have no policy differences worth the name with the Congress Party and their sole complaint is against the newly-discovered "high-handed coterie rule" of the State Congress organisation.*

### *The United Fronts*

Politics in West Bengal tends to be radical, romantic, and revolutionary. The Bangla Congress leadership tried very hard to bring all the Left parties together in a common front against the Congress but the strong rivalry between the two Communist Parties stood in the way. Eventually two "united fronts" were formed to fight the Congress every time, and each other sometimes;—the People's United Left Front led by the Bangla Congress and the United Left Front led by the Left Communists. No less than 14 Left parties divided themselves into the two groups.

<i>People's United Left Front</i>	<i>United Left Front</i>
Bangla Congress	Communist Party of India (Marxist)
Communist Party of India	Forward Bloc (Marxist)
Praja Socialist Party	Revolutionary Socialist Party
Bolshevik Party	Revolutionary Communist Party of India
Gorkha League	Workers Party of India
Forward Bloc	Socialist Unity Centre
Lok Sevak Sangha	Samyukta Socialist Party

### *The New Balance of Power*

The election results in the State left the Congress Party stunned. One after another the senior leaders went under. Sachindra Chaudhuri the ex-Finance Minister of the Central Government was soundly beaten by Amiya Bose a nephew of Subhas Chandra Bose. The redoubtable Atulya Ghosh was humbled by a largely unknown trade union leader. In the elections to the State Assembly the most spectacular defeat was that of P. C. Sen the Chief Minister, in his home constituency of Arambagh which he had nursed carefully and well for many

#### THE STAGE IS SET

years. The man who beat him was Ajoy Mukherjee. The defeat of the Atulya Ghosh-P. C. Sen combination was the signal for wild spontaneous rejoicing by huge crowds who thronged Dalhousie Square in front of the Secretariat in Calcutta. The celebrations continued far into the night and spread from Calcutta to all parts of West Bengal.

The Congress was still the largest single party in the new Assembly but it lost 29 seats and its absolute majority. Its percentage of the popular vote dropped from 47.29 per cent to 40.97 per cent but it secured 11 more seats than it would have won under a system of proportionate representation. It lost ground in 11 districts of the State but gained in 5 others. Its largest losses were in the Midnapore District of Ajoy Mukherjee, and the 24-Parganas district of the Bangla Congress and the two Communist Parties. These two districts, the most populous in the State, have 85 seats between them out of the total of 280 seats in the Assembly. Congress could carry only 24 out of these crucial 85 seats.

The Communists had fought the 1962 elections as a united party and carried 50 seats. After the split in 1964, the "splitters" or the Left Communists who call themselves the Communist Party of India (Marxist) were by far the stronger party. They proved it in the elections. They carried 43 seats and emerged as the largest non-Congress group in the Assembly. The C.P.I. carried only 16 seats. The two Communist parties fought each other in 38 constituencies. Of these the Left Communists beat their Right comrades in 28 constituencies and were beaten by the Right Communists in 10. In elections to the Lok Sabha the Right Communists did better. They won 5 out of 11 seats as against 5 out of 16 seats contested by the Left Communists.

If the two "United Fronts" had combined they would have gained 47 additional seats from the Congress of which 25 would have gone to the C.P.I. (M) and 6 to the C.P.I. For the Lok Sabha the Congress would have conceded 7 out of the 14 seats they carried.

The Bangla Congress did better than many people expected and won 34 seats in the State Assembly. In a system of proportionate representation they would have won only 30 seats.

The following table shows the relative strength of each political party in rural and urban areas. The Congress Party has a

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ratio of roughly 2:1 in favour of rural constituencies whereas the Bangla Congress is almost entirely rural, its strength being concentrated in the two districts of Midnapore and 24-Parganas. The Communist Party of India has a stronger urban base but this is not true of the Communist Party of India (Marxist). The latter's hard work among landless labourers and share-croppers is reflected in the results.

MEMBERS OF THE LEGISLATIVE ASSEMBLY  
1967 ELECTIONS

<i>Parties</i>	<i>Total No. of Members</i>	<i>Rural</i>	<i>Urban</i>
CONGRESS	127	80	47
C.P.I. (MARXIST)	43	24	19
BANGLA CONGRESS	34	30	4
COMMUNIST PARTY	16	6	10
FORWARD BLOC	13	9	4
PRAJA SOCIALIST PARTY	7	6	1
SAMYUKTA SOCIALIST PARTY	7	5	2
REVOLUTIONARY SOCIALIST PARTY	6	5	1
LOK SEVAK SANGHA	5	4	1
SOCIALIST UNITY CENTRE	4	4	
GORKHA LEAGUE	2	1	1
WORKERS PARTY OF INDIA	2	1	1
FORWARD BLOC (MARXIST)	1	1	
SWATANTRA	1	1	
JANA SANGH	1	1	
INDEPENDENTS	11	10	1
	<hr/> <b>280</b>	<hr/> <b>188</b>	<hr/> <b>92</b>

*Note :* (a) 3 Bangla Congress, 1 Independent, and the Jana Sangh, MLAs joined the Congress Party in June 1967; (b) 9 more Bangla Congress MLAs left the Party in October 1967 and sit as Bharatya Kranti Dal MLAs.

*Formation of the United Front Government*

Reading the signs correctly the Congress declined to form the Ministry and the two "United Fronts" suddenly found themselves

THE STAGE IS SET

pitchforked into a situation they had not expected. Responding to the enthusiasm for a non-Congress government they agreed to paper over their differences and form a Government. As the hero who had humbled P. C. Sen, Ajoy Mukherjee agreed to become Chief Minister. The bargaining was hard and exhausting but eventually a Ministry was nailed together.

The following table gives the relative strength of the 14 parties in the Assembly and in the Ministry.

<i>Parties</i>	<i>No. of Seats in the Assembly</i>	<i>No. of Ministers</i>
<b>P.U.L.F.</b>		
Bangla Congress	34	4
C.P.I.	16	2
Forward Bloc	13	2
P.S.P.	7	1
Lok Sevak Sangha	5	1
Gorkha League	2	1
Bolshevik Party	— 77	— 11
<b>U.L.F.</b>		
C.P.I. (M)	43	3
S.S.P.	7	1
R.S.P.	6	1
S.U.C.	4	1
Workers Party	2	1
Forward Bloc (Marxist)	1	—
R.C.P.I.	— 63	— 7
Independents	10	1

Within a week of the formation of the Ministry a super-Cabinet of all the 14 parties in the two Fronts was formed, called the United Front Committee and the 2 parties who failed to carry even a single seat in the Legislative Assembly thus had a voice in formulating the "basic policies" of the new Government. The United Front Committee was to play an increasingly important role later.

The new Government could hardly have been launched under better auspices. Riding the popular tide of strong and bitter anti-Congress sentiment they had an enormous fund of goodwill. When Chief Minister designate Ajoy Mukherjee arrived at Calcutta's railway station he was given a hero's welcome. All along the route of the victory procession thousands stood and cheered. It was heady wine for any politician. But it was also clear that the Communists held a dominating position in the new Government.

The two Communist parties and their other extreme revolutionary allies held the crucial portfolios of Finance, Land and Land Revenue, Labour, Information and Education. Further, it was not to be expected that the simple Gandhian Ajoy Mukherjee would be any match for the able and determined Jyoti Basu C.P.I. (M.) who assumed the position of Deputy Chief Minister.

### *The 18-Point Programme*

The first collective decision of the new United Front was to hold a massive rally on the Calcutta maidan on March 1, 1967 where some 'popular' measures were announced. The police who had guarded Congress ministers in their offices and in their homes were told that such protection was not necessary for the new 'popular' ministers. Salaries of Ministers were reduced. The Chief Minister would accept Rs 700 only per month, instead of Rs 1,150 and the salaries of other ministers would be reduced from Rs 900 to Rs 500 per month. Air-conditioners in Writer's Buildings (the Secretariat) would be switched off as a gesture of "solidarity with the poor people."

The maidan meeting on 1st March also "formally approved" the United Front's 18-point programme for the new Government. It was carefully drafted but the euphemisms contain the seeds of the Government's policies and programmes on important issues and is therefore reproduced in full in the Appendix. "Particular attention" was promised "to the acute problems faced by poor peasants, share-croppers, agricultural labour and all sections of distressed tillers." "Determined steps" were to be taken to "reform educational administration." The Government promised not to "suppress democratic and legitimate struggles of the people." Local self-governing institutions and Panchayats would

## THE STAGE IS SET

be "democratised." The executive and the police would be "re-oriented in a manner consistent with the democratic aspirations of the people." A general threat was held out "to liberate the forces of freedom and progress." The stage was thus set for action in aid of the international communist conspiracy in general and their sinister tactics and immediate aims as spelt out by the C.P.I. (M) in particular.

### *The "Particular Immediate Task"*

Like the fountain-head of their inspiration Mao-Tse-Tung, the C.P.I.(M) have never bothered to hide their real intentions if only good and loyal citizens, concerned for their country, would take the trouble to read what they say. The Central Committee of the C.P.I. (M) meeting in Calcutta in April 1967, considered the "new situation" that arose in Bengal after the elections and laid down the priorities in what is referred to as the April Resolution. First they quoted Lenin and Stalin to underline the importance of "the particular immediate task: the fulfilment of which ensures the successful fulfilment of the other immediate tasks." This task is not the provision of more food, a little shelter and better employment for our people. It has nothing to do with all these, or for a better life for the much quoted "masses".

"The particular immediate task," says the April Resolution, "is that of educating, reorganising, rebuilding, consolidating and expanding the Party organization . . . of proper selection, promotion, and grading of cadres and their proper deployment in different class and mass fronts . . ."

In case anyone should think that this is the task of the Party organisation alone and that their nominees in the Ministry should get on with the job of government, the Central Committee has this to say on the functions of C.P.I. (M) Ministers.

"Our ministers without either undue illusions about giving relief in a big way or courting despair that nothing can be done under the present set-up, should always bear in mind that they are the Party's representatives, should strive to tender our bona-fides to the people. Any failure on this score compromises the Party's political line . . . adversely affects the independent mobilisation of the people... and all this in turn will not help us

to resist and overcome the vacillations, wobblings and sometimes even possible backsliding of some democratic parties in the United Front. . . .”

“In a word” clarifies the Central Committee “the U.F. Governments that we have now are to be treated and understood as instruments of struggle in the hands of our people, more than as Governments that actually possess adequate power, that can materially and substantially give relief to the people. In clear class-terms, our Party’s participation in such Governments is one specific form of struggle to win more and more people, and more and more allies for the proletariat and its allies, in the cause of People’s Democracy and at a later stage for Socialism.” The warning could hardly be clearer.

This is not the aim of the C.P.I. (M) alone. One would scan all the writings of the C.P.I. in vain for a repudiation of this overall objective. Only their tactics are somewhat different. And as is well-known to all Communists, “tactics are the determination of the line of conduct of the proletariat in the comparatively short period of the flow and ebb of the movement, the rise and decline of the revolution.” Of the 14 parties in the United Front only five are prepared to try constitutional methods. The rest all swear by revolution and work for it. Some of them even consider the C.P.I. (M) somewhat half-hearted in their commitment to revolution!

The working of the United Front Government from its very inception provides a classic text-book example of the communist tactics of “united front from above.” Chief Minister Ajoy Mukherjee was first flattered, then used and finally outmanoeuvred. His Bangla Congress colleagues were overawed by superior tactics. The P.S.P. and S.S.P. were always suspect and they have complained publicly of “continued neglect” in framing policy matters in the United Front Committee. The old but spirited Food Minister, P. C. Ghosh, an Independent, was insulted publicly and isolated. The formula laid down by the Central Committee of the C.P.I. (M) of “unity—struggle—unity” in pursuing the policy of united front was put into practice with devastating effect. For those communists who might baulk at the open duplicity of these tactics the April Resolution had these words of comfort. “There is no reason why we should feel shy of this development.” And thereby hangs a tale.

P A R T I

**SIGNPOST TO REVOLUTION**

**2. The First Fifty Days**

THE NEW GOVERNMENT got off the mark quickly to consolidate their position. In marked contrast to the lethargy and indifference of the previous Congress government a number of decisions were announced within the first fifty days. The subjects of these decisions were very carefully chosen as will appear from the following examples:

1. The Calcutta Corporation was instructed to reduce the tax on bustees (slums) while tax on buildings with an annual valuation of Rs 15,000 was increased.
2. No tax or cess would be realised in the drought-stricken areas where the extent of crop failure was 60 per cent or more. This was much needed relief that the previous Congress Government ignored.
3. In twenty-five municipalities the elections had been postponed by the previous Government or the municipalities had been superseded. It was announced that elections to all these would be held in May/June 1967 on the new basis of adult franchise.

*It is convenient to add a postscript here. Elections have now been held in eighteen municipalities. The Congress retained its hold in only one. In six municipalities the C.P.I.(M) gained an absolute majority. Of the total of 359 seats in these eighteen municipalities, the C.P.I.(M) captured 159 seats and the Congress only 47. The C.P.I. came third with about 20 seats. The C.P.I.(M)'s spectacular success is due to their tactics of "united front from below." Bypassing the leaders of other political parties they formed "citizen's committees" to sponsor their candidates and*

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*where necessary even refrained from attaching the Party label to them. By contrast the Congress Party reeling under the blows received during the general election first hesitated and then declined to commit the Party's prestige in these local elections. The result was that in several wards more than one Congressman fought a "citizen's committee" candidate.*

*Elections to the Calcutta Corporation are not due yet. For many years the Congress Party has enjoyed an absolute majority in this vital institution, with Atulya Ghosh as Chairman of its Municipal Association. Some details of this Corporation's functioning will be of interest;*

- (a) *In the six months ending January 1967, 931 items of business were placed before 24 meetings of the Corporation. Of these in only 63 items was any decision reached. No statistics are available as to how many of these 63 decisions were implemented.*
- (b) *An expert committee appointed by the State Government two years ago recommended urgent action to instal a new plant to supply filtered water to the city as the existing very old plant was in danger of a complete breakdown. Because of callous mismanagement and corruption the imported new equipment provided by the State Government at great expense it still not in commission and will not be in commission for at least another year and is reported to have deteriorated already.*
- (c) *Out of a total of 323 conservancy vehicles in existence, only 34 hold the minimum certificate of fitness required under the Motor Vehicles Act.*
- (d) *In the three years, 1964 to 1966 for which statistics are available, 5388 demolition cases were started in respect of unauthorised constructions. Only 889 cases have so far been decided but in not more than 130 cases have the demolitions been carried out.*
- (e) *According to the Mayor, outstanding Municipal dues amount to more than Rs 6 crores (Rs 60 million), but no effort seems to have been made to realise the amount.*

*The late Dr Ram Manohar Lohia was often guilty of exaggeration in search of the telling phrase. On one occasion at least he*

## THE FIRST FIFTY DAYS

*appears to have been guilty of understatement. He said in another context that, "The Communist Party thrives on the dung heap of the Congress!"*

4. The purchase price of paddy to be procured by the Government was increased by Rs 5 per maund in an effort to catch up with the procurement drive, slowed down by the Congress Government in the interests of party advantage.
5. It was announced that landless labourers and poor peasants would be given up to 5 cottahs (3 acres equals 20 cottahs) of land from the khas lands vested in the Government. The peasants did not get the land without complying with other conditions. This is dealt with in a later Chapter.
6. Higher minimum wages were ordered in thirteen different industries without any relation to productivity or the capacity of the industries to pay.
7. The Police were not to "interfere" in "legitimate trade union movements." The significance of this somewhat terse announcement is dealt with at length in a later Chapter.
8. The Communists had launched many agitations by Government employees and teachers in the months before the general elections. The new government very quickly granted increased Dearness Allowance to these employees and to teachers totalling Rs 15 crores (Rs 150 million) per annum.
9. Over 100,000 temporary State Government employees were made permanent.
10. Hitherto trade unions of Government employees were not recognised and known communist party members among them were asked to leave Government service as they represented a security risk. The new Government granted recognition to the Communist-led union of their employees and announced that political affiliations would no longer be a bar to employment. Known security risks dismissed from service were ordered to be reinstated.
11. Over 600 workers of the State Transport Corporation dismissed by the previous Government for sabotage, violence and theft were ordered to be reinstated.

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**12. The State Security Act was allowed to lapse.**

A document circulated to Central Committee members only at the Madurai session of the C.P.I. (M) in August 1967, boasts that "our Party and our ministers played an important role in getting these progressive policies (items 5 to 12 above) accepted by the Government."

## PART II

### *BASES IN THE COUNTRYSIDE*

#### 1. The Rural Scene

WEST BENGAL is the third smallest State in India in terms of area. It covers 33,829 square miles and only Kerala and Nagaland have smaller areas. Yet it supports a population of 34.93 million people making it the second most thickly populated State in the country with an average of 1,032 people per square mile. The heaviest concentration is in the five south-eastern districts of 24-Parganas, Calcutta, Howrah, Hooghly and Burdwan which support 47 per cent of the State's population on 30 per cent of its total area. After Calcutta, which has a density of 73,642 persons per square mile, the next two most heavily populated districts are Howrah, with a density of 3,639 and Hooghly with a density of 1,841. Of the total employment in industries in the State as much as 72 per cent is concentrated in this area.

Next in order of concentration are the northern districts of West Dinajpur, Malda, Murshidabad and Nadia with an average density of 931 persons per square mile. They cover 20.57 per cent of the State's area and contain 18.76 per cent of its population.

The eastern districts of Birbhum, Bankura, Midnapore and Purulia have an average density of 731 and cover 35.2 per cent of the total area. They support only 25.2 per cent of the State's population.

The hill districts of Darjeeling, Jalpaiguri and Cooch-Behar are the least heavily populated having a density of 606 only. They account for 14.5 per cent of the State's area but support only 8 per cent of its population.

The State's average rural density is 787. In the plains a density of 1,000 including about 200 agricultural workers per square mile, appears to be the norm. With existing techniques of cultivation, saturation point has generally been reached and has been greatly exceeded in some areas creating an explosive situation.

A comparison of the rate of growth of population with the rate of growth of employment adds another dimension to the crisis. The population in the State rose between 1921 and 1951 at a compound rate of 1.37 per cent per year. During this period employment was generated at a rate of .88 per cent per year. Therefore unemployment grew at a rate of .49 per cent per year. Between 1951 and 1961, population again rose at an even higher rate of 2.9 per cent while employment rose at a rate of 2.31 per cent. Unemployment therefore grew at an increased rate of .59 per cent over this decade and preliminary figures indicate that the gap between the rising population and employment opportunities has continued to widen in the years after 1961.

### *Migration*

Migration into West Bengal has been of a most unusual order. Of the total population of the State of 34.93 million enumerated in 1961, migrants into West Bengal accounted for 5.48 million or more than 16 per cent of the total population. As many as 3.07 million of these migrants, that is almost 56 per cent, came from East Pakistan.

Migrants constitute as much as 42 per cent of the population of Calcutta and 18 per cent of the population of the adjoining district of 24-Parganas. The migration to urban areas appears to be employment selective and comes largely from Bihar and U.P. The migrants have not always been successful in finding gainful employment; very often they have tended to depress the level of earnings securing employment in pursuits like petty trade and unskilled services.

A third of the total migrants, mainly those from East Pakistan, have moved north in search of land for settlement. 860,000 have moved to the hills and 960,000 to the northern districts. Migrants now constitute 28.7 per cent of the population in the hills and 14.6 per cent of the population in the northern districts. The economy of these areas is characterised by the absence of industries and therefore by an even greater dependence on land. In Nadia district for instance, migrants constitute as much as 28.17 per cent of the rural population.

*The Food Shortage*

It is small wonder therefore that West Bengal has a chronic deficit in foodgrains. Foodgrains produced in the State consist almost wholly of rice. For instance in 1964-65 of the total quantity of 5.85 million tons of foodgrains produced, rice accounted for 5.76 million tons. In 1951-52, the rice production totalled only 3.53 million tons but the increase is still well below requirements because of the pressure of the birth rate and migration into West Bengal. Central assistance in the shape of 1.5 million tons of foodgrains per annum is considered essential for the time being to supplement local production.

A disturbing feature, by no means uncommon in the rest of the country is the falling level of market arrivals of foodgrains compared to total production. Of the total production of 5.84 million tons of rice in 1963-64 only 163,250 tons were offered in the twenty-seven leading rice markets in the State. In 1964-65, the market arrivals dropped, to 131,040 tons although the crop that year had increased to 5.76 million tons. This trend has become even more accentuated in the later years. The answer appears to be that food is adulterated with large doses of politics in this country. The farmer does not get a fair price for his crop but is forced to pay higher prices for everything he needs to buy. He has therefore lost faith in the currency and prefers to hang on to his grain rather than exchange it for rupees which buy less today than a year ago and will buy even less a year hence. The rise in prices and inflation are not accidental phenomena. They were foreseen by the planners and accepted in the Third Plan document as "part of the calculated sacrifices that have to be made."

The Communist Party of India (Marxist) did one better. Before the elections they refused to accept that there was any shortage of foodgrains at all. In a policy document published just before the elections they assumed the State's population at 40 millions (allowing for the known rate of increase in the years following the 1961 Census) and sought to prove with figures that "without even a ton of foodgrains from the Central store a surplus of 10.53 lakh (1.05 million) tons remains." The root of the crisis therefore lay in the machinations of "anti-social vultures." Yet within days of the formation of the United Front Government every senior Minister except the Food Minister had accused the

Central Government of withholding essential foodgrains from the people of West Bengal and half-a-dozen of them journeyed to Delhi in August and threatened the Prime Minister with dharna (a polite form of the gherao) if the Centre did not immediately concede the demand for 15 lakh (1.5 million) tons of foodgrains to supplement West Bengal's own production. One wonders what happened suddenly to the surplus of 10.58 lakh tons! The Communists can claim that they merely copied a good example of Congress double-talk. Was it not the then Chief Minister P. C. Sen, they must recall, who thundered: "No Government worth the name can allow laissez-faire conditions to continue to any significant extent so far as rice and wheat are concerned," and then proceeded to drop all procurement in November 1966 in the interests of seeking a few more votes for his party in the general elections only three months away?

### *The Cultivators*

The following table compiled from official and non-official sources gives a breakdown of the State's total working population of 11.58 million.

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#### CULTIVATORS

Holding over 15 acres	185,000 ( 1.6%)
Between 15 and 5 acres	1,320,000 (11.4%)
Between 5 and 2.5 acres	1,250,000 (10.8%)
Under 2.5 acres	1,724,000 (15.0%) 4,479,000 (38.8%)

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Agricultural labourers	1,772,000 (15.3%)
Ancillary agricultural occupations (forestry, livestock, fishing)	464,000 ( 4.0%)
Rural cottage industries	376,000 ( 3.2%)
Rural services	524,000 ( 4.5%)
Mining and manufacturing industries	1,585,000 (13.7%)
Trade and Commerce	872,000 ( 7.5%)
Urban services	1,048,000 ( 9.0%)
Miscellaneous (unclassified)	460,000 ( 4.0%)
	<hr/>
	11,580,000 ( 100%)

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## THE RURAL SCENE

It will be seen that in spite of the concentration of industries in parts of West Bengal more than 54 per cent of the population is engaged in agriculture. There are very few big farmers in the State. The following analysis\* shows the number of holdings in each category and the total area covered by that category together with comparative All-India averages.

<i>No. of holdings</i>	<i>%</i>	<i>All India Average</i>	<i>Area in Acres</i>	<i>%</i>	<i>All India Average</i>
Up to 5 acres	23,68,000	74	62.96%	51,14,000	41
5 to 10 acres	6,04,000	18.88	18.2%	41,28,000	33.3
10 to 15 acres	1,70,000	5.31	8%	20,01,000	16
15 to 30 acres	53,000	1.65	7.18%	10,33,000	8.5
30 and above	3,000	.09	3.39%	1,33,000	1
	<hr/> 31,98,000		<hr/> 124,09,000		

The number of holdings of 30 acres and above, before the imposition of the ceiling of 25 acres, was more than 30 times less than the All-India average. At the other end of the scale the number of small holdings of up to 5 acres is 11 per cent higher than the All-India average. These very small holdings cover 41 per cent of the total area of the State against the All-India average of only 18.88 per cent.

The average size of land holding in West Bengal is only 3.88 acres which is the lowest in India except only for Kerala. It is also half the All-India average which is 6.65 acres. This average of 3.88 acres has to be compared with 13.79 acres in Rajasthan, 13.06 in Maharashtra, 11.98 in Gujarat, 11.16 in Punjab and 10.10 in Madhya Pradesh. What then is one to make of the communist story of an army of exploiting landlords making war upon the poor peasants of Naxalbari?

The prevailing system of cultivation is age-old and continues unchanged in spite of the "reforms" of the Congress Party in twenty years of independence. The petty landlord or *jotedar* generally cultivates his land by leasing it out to *bargadars* or *adhiars*, on a crop-sharing basis. If the *jotedar* provides seeds,

\* Drawn from National Sample Survey, 16th Round Draft Report, 122.

bullocks and plough, and manure, the crop is shared on a 50:50 basis between him and the *bargadar*. If he provides nothing except the land, he gets 40 per cent of the crop and 60 per cent is retained by the *bargadar*. The system suffers from many disadvantages. There is no certainty that the *jotedar* will retain the same *bargadar* for the next season, and this lack of security does not encourage the *bargadar* to look beyond immediate returns. Further, instances are not uncommon where the *jotedar* loans paddy to the *bargadar* during the pre-harvesting season and collects the loan plus "interest" in kind from the next harvest. On the other hand the *bargadar* has every opportunity to conceal a part of the crop and often successfully avoids giving the full share to the *jotedar*. It is also not very easy for a *jotedar* to change his *bargadar* even if he has good reason to do so. The system breeds distrust, puts a premium on dishonesty and has built-in brakes on real progress on the farm front. Disputes and disagreements between *jotedars* and *bargadars* never very far below the surface, provide the communists with what they themselves describe as "great opportunities" to strengthen their hold in the countryside.

The communists operate through their farm front, the All-India Kisan Sabha. At the national level the C.P.I. are dominant but at the time of writing a split seems imminent as they resist the attempts of the C.P.I. (M) to take over the organisation. In West Bengal the Kisan Sabha or Kisan Samity is dominated by the C.P.I.(M) who have enormously increased their strength in the last few months leaning heavily on the support of their nominee in the United Front Government, Hare Krishna Konar who holds the portfolio of Land and Land Revenue. Konar is also Secretary of the West Bengal Kisan Sabha and the President is Biswanath Mukherjee (CPI) a Cabinet Minister and younger brother of Ajoy Mukherjee, the Bangla Congress Chief Minister. Writing in a special supplement of "Mainstream" dated 29th July 1967, Hare Krishna Konar spells out the real objectives of the Kisan Sabha:

"The primary task is abolition of large-scale landholding and distribution of land to the landless. The next step would be for the Government to explain to the peasants the disadvantages of cultivating small holdings. The peasants will then volun-

#### THE RURAL SCENE

tarily take to collective farming. Private ownership of land will then be done away with."

One would be pardoned for enquiring of Mr Konar as to which country in the world has succeeded in 'voluntarily' getting its farmers into collectives. Is it Stalin's Russia or can he possibly be thinking of Mao's China! In case anyone should have any doubts, Konar goes on to explain: "It is impossible for the Government to solve the land problem under the present social system . . . the Constitution stands in the way."

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*BASES IN THE COUNTRYSIDE*

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## 2. The Anatomy of Naxalbari

IN THE narrow neck of West Bengal between Nepal on one side and East Pakistan on the other lie three thanas or police station areas under Siliguri Sub-Division of Darjeeling District. Their names are Naxalbari, Kharibari and Phansideoa, and cover a total area of 256 square miles of rugged backward peasant country. The area is thinly populated with a density of only 504 persons per square mile, lower than the average density of 606 in the hill districts of the State. The total population as enumerated in the 1961 Census is 126,723 of which Phansideoa accounts for 58,573, Naxalbari, 42,193 and Kharibari, 25,957. A feature of the area is the large number of thinly populated villages, 242 in all. For instance, of the total population of Naxalbari thana about a fourth live in villages with a population below 500 and another fourth in villages of between 500 and 1,000 people. In Kharibari thana, nearly half the population live in villages with fewer than 500 persons in each. There is not even one small town anywhere. Thick jungles recur in all three areas. Communications are difficult, especially during the rains which start fairly early and continue till October.

The people of the area present a mixed bag. Adivasis or tribals of local origin like the Lepchas and the Bhutias mingle with the adivasis who have come from Chotanagpur (in Bihar) like the Santhals, Oraons and the Mundas. The backbone of the peasantry is provided by the Rajbanshi, a scheduled caste\* who make hardy cultivators. They speak a variety of languages.

\* For an analysis of the Scheduled Castes and Tribes of West Bengal see Appendix. Together they constitute more than 25% of the total population of the State.

## THE ANATOMY OF NAXALBARI

Lepchas and Bhutias have a language of the Indo-Tibetan group. The Santals, Oraons and Mundas mainly speak a broken Hindi. Many have their own dialects also, including one which is close to Maithili and Bengali. They profess diverse religions. Many of the tribals are Christians, the Lepchas and Bhutias adhere to Lamaism of Tibetan origin, there are a number of Hindus and a few Buddhist groups.

There are a number of tea gardens in the area. The soil that helps the growth of tea bushes here, seems unsuitable for cultivation. Water quickly drains away from the sandy soil leaving the fields dry. There are no schemes to conserve water. Fertiliser is unknown except in the tea gardens. The maximum yield of paddy is 10 to 15 maunds per acre against the state's average of 40 maunds. It was in this setting that the well-organised happenings of 1967 took place and almost overnight Naxalbari became a household word, a symbol and a warning.

This was not the first warning. There were similar "struggles" in this area in the past, notably in 1939 when Khwaja Nazimuddin was Chief Minister of an undivided Bengal. Then again in 1959 during the Chief Ministership of Dr B. C. Roy. The "struggles" related to the grievances of the share-croppers mainly, the Rajbanshis and the tribals from Bihar imported into the area as indentured tea garden labour about fifty years ago. Darjeeling district was an unsettled area during British rule and such tenancy laws as existed in the rest of Bengal were not enforced there. The share-croppers dispossessed of their land by superior power had a continuing grievance which all the much-vaulted 'reforms' of the Congress Government did nothing to relieve. When the tenancy and land ceiling laws were applied to the District, the 'friends' and relations of those in authority had ample warning and there is no doubt that holdings in excess of the ceilings were sold or transferred to sons and wives. The Land Revenue Minister and Secretary of the West Bengal Kisan Sabha, Hare Krishna Konar is right when he complains of "fraudulent sales and transfers." The simmering discontent continued, fanned by the propaganda of the C.P.I.(M) dominated Kisan Sabha, and in March 1967, it erupted.

Encouraged by the formation of a sympathetic government the local Kisan Sabha leadership decided that time was ripe for action. The Central Committee of the C.P.I. (M), meeting at

Nurmahal in October 1966, had already laid down the "Tasks on the Kisan Front."

It criticized the error of the Party in "placing undue reliance on the middle and rich peasant sections" and "in virtually distorting the correct concept of all-in peasant unity" by attempting to build that unity "based upon the middle and rich peasantry instead of building it around the rural labour." In a word, "the Party had failed in giving the correct class-orientation to the work on the peasant front."

As long ago as December 1953, the secret Communist Party document known as the "Tactical Line" received from Moscow and circulated only to Central Committee members at the Third Congress of the then united Communist Party at Madurai, had pronounced that "the agrarian crisis is maturing rapidly." It called for "a network of peasant and agricultural workers organisation with underground units in villages.... Volunteer squads of the most militant and conscious sections of the peasants have to be formed".... to become in time "the nuclei of the partisan squads as the movement will develop and reaches the stage of seizure of land and partisan warfare." The question arose whether that stage had been reached. The C.P.I.(M) appeared to answer that question in the affirmative. Their Central Committee meeting at Nurmahal in October 1966 gave the signal. After objecting to the new "reformist orientation directed to parliamentary work in the main rather than to mass work on correct class lines," they "demanded a sharp break with this organisational pattern" and called upon the faithful to consciously train "active cadres from the ranks of agricultural labourers and rural poor in order to make them the militant vanguard of the anti-imperialist, anti-feudal revolution."

### *The Reign of Terror*

The local leadership of the Kisan Sabha, many of them members of the C.P.I.(M)'s Darjeeling District Committee proceeded to do just that. From early March till the 5th July they let loose a systematic campaign of terror and violence.

First, processions were organised—of determined men dressed in red and black and carrying the red flag of the Kisan Sabha to intimidate the villagers. They also carried lathis, spears, bows and

arrows. The slogans were ominous. "Mao-Tse-Tung Zindabad!" (Long live Mao-Tse-Tung)—they shouted. Other slogans asked people to join the Kisan Sabha and declared that the time for armed revolution had arrived. Had they not been told just before the general elections by their C.P.I.(M) mentors that "these struggles for the realisation of their basic demand (seizure of lands without compensation and the promise of its distribution to the landless without cost) was to be realised through the mass action of the entire peasantry" and "was a part of the main revolutionary struggle, the struggle for the establishment of a People's Democratic State"? The police, having been advised by the United Front Government in Calcutta that this was a "democratic and legitimate struggle" as foreshadowed in the 18-point programme, took no preventive action. These tactics of intimidation succeeded.

The next step was forcible seizure of land by armed gangs of the Kisan Sabha and looting of foodgrains by their "citizen's committees." "Donations" of land and grain were demanded and the penalty for resistance was arson and murder. No less than 180 serious cases were reported between 3rd March and 27th June. The stolen grain was hidden away by Party cadres. The procedure for seizing land was simple. Gangs armed with spears and bows and arrows would demarcate the "liberated" land by planting four red flags. The police wanting to intervene were hamstrung by their political bosses in Calcutta, and the few who were foolhardy enough to attempt to recover their land were met with superior armed resistance and soon gave up trying. The main target of attack was not the more prosperous landlord, it was the small peasant and agricultural labourer, the objective being to bully them into joining the Kisan Sabha. That the effort succeeded is beyond question. A C.P.I.(M) spokesman proudly announced that in six short months of 1967 the membership of the Kisan Sabha in the whole State had risen by an astonishing 450,000. The membership fee was only 20 paise. Further evidence is provided by what experienced observers have recorded. The respected trade union leader Dr Maitreye Bose has given examples of cases which can "by no stretch of imagination be attributed to the poor taking revenge on the rich." One was the case of a primary school which had acquired land from a local landholder, who then forcibly ploughed up the same land for which he had

received payment. In another case of poor landless adivasi who had taken 7½ *bighas* of vested land by paying Rs 20.25 licence fee was unceremoniously dispossessed. "That there is complete lawlessness in the area, there is no shadow of doubt" added Dr Bose on her return from a mission to Naxalbari. The late Dr Ram Manohar Lohia could hardly be described as a champion of landlords, big or small. He had no hesitation in declaring in Delhi on 27th September 1967, that "the Left Communist movement in Naxalbari was not directed against big landlords but primarily against small holders and agricultural labourers."

### *The "Leaders"*

A word about the leaders of the movement in Naxalbari. The brains behind the operation was fifty year old Charu Mazumdar a dedicated Communist and a veteran of the 1939 and 1959 "struggles" in the area. Charu Mazumdar lives in Siliguri town not far from the area of operations. The leader in the field was Kanu Sanyal a younger man who has now gone underground. The second and third rank leadership numbers about twenty. Land settlement records of the area are in a poor state but the author undertook an investigation into the land holdings of these 'selfless' and 'dedicated' servants of the peasantry. The results are interesting. Kanu Sanyal does not belong to the area and holds no land there. Charu Mazumdar, his chief has some land, though great secrecy prevails as to the exact size of the holding. But of the twenty others in the second and third rank leadership, two have land in excess of the ceiling, two hold the full 75 *bighas* allowed under the Estate Acquisition Act and the rest hold between twelve and seventy-five *bighas* apiece. Not one is a landless labourer (holding less than three *bighas*). No wonder then, that the C.P.I.(M) deplore the "absence of the correct class orientation to the work on the peasant front... because the bulk of our leading kisan activists come from rich and middle peasant origin!"

By the end of May the situation was completely out of control, and the clamour for intervention on the part of the State Government became insistent. The Government was reluctant, vascil-

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lating and unwilling if not openly sympathetic. Constituted as it was it could hardly have been otherwise. We have already seen that the police had instructions not to intervene as it was a "democratic movement."

On the 23rd May, Police Inspector Wangdi was ambushed and murdered. This marked a turning point in events. Police intelligence expected an attack on Naxalbari police station on the 25th May. The Sub-Divisional Officer accordingly left Siliguri town with a small force of twenty constables and a havildar. They reached Prasadjote. A small bustee, a railway gangman's quarters near the level-crossing and a tea stall make up Prasadjote. Communist intelligence had prior information and the police party was met on the road by an armed mob. The Sub-Divisional Officer was taken by surprise and asked his party to halt. He also sent for "reinforcements with tear gas." The vanguard of the mob consisted of women and children while the brave revolutionaries ushering in the communist millennium stayed behind. The mob started shouting slogans: "Victory to the red flag": "Police have no orders to fire": "Snatch the guns." An arrow shot by one of the mob wounded the havildar in the arm.

Suddenly a man standing at the tea stall signalled a warning to the police party. Unknown to them another mob appeared behind them and cut off their retreat. The mob in front of the police party was by then barely twenty yards away and half the policemen had to turn around to face the mob at their rear. As both mobs ignored the S.D.O's orders to disperse and continued their advance he ordered five rounds to be fired in the air as a warning. Even this had no effect and the S.D.O. thereupon ordered ten rounds of effective fire upon the mob in front and thirteen rounds upon the mob behind. The victims were largely women and children. Among those killed was the young wife of the railway gangman and his three-month old baby girl. The poor woman was forced to stand in the front row of the mob by the "liberators" under pain of strangulating her little daughter. A pretty young Rajbanshi woman, Radhika, who had gunshot wounds in her thigh also complained of being forced into joining the vanguard of the mob under a threat that if she refused her husband would be murdered.

Several arrests were made. On being questioned as to the reason why they had all collected at Prasadjote that day everyone had the same reply—they had come “for a breath of fresh air!”

*The Response*

The State Government’s thinking was dictated by the two Communist Parties, collaborators in the Kisan Sabha leading the movement and by their ‘revolutionary’ allies in the United Front. The police, as we have already seen were immobilised. Chief Minister Ajoy Mukherjee, an unsophisticated and simple man surrendered his judgement to his Communist brother and Cabinet colleague Biswanath Mukherjee. He continued to describe the events in Naxalbari as an agrarian struggle. As late as 11th June 1967, in a telephone communication to the Darjeeling District administration and police he personally gave a distinct and categorical order that the police should keep off the disturbed areas as far as practicable and that there should be no police action. The district authorities pleaded in vain that “failure to take necessary measures would mean shirking responsibility and submission to intimidation and violence.” The only consolation the Chief Minister was able to offer was that a Cabinet Mission of six ministers including Biswanath Mukherjee and Hare Krishna Konar, whose Kisan Sabha was unashamedly leading the agitation, would be in Siliguri the next day, 12th June.

*The Cabinet Mission*

The Cabinet Mission was greeted with an intensification of violent incidents. It returned empty-handed but Biswanath Mukherjee and Hare Krishna Konar stayed behind for a whole day to talk to their followers. The followers refused to follow, as by then they had been encouraged by Peking. They had already told Hare Krishna Konar when he paid them his first visit on May 17th, in a huge poster welcoming him to Siliguri, “This movement can succeed only by the armed struggle and resistance of the working class. Resistance is meaningless without guns—let

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the working class collect guns and be vanguards in the struggle of the kisans."

### *The "Ebb of the Revolution"*

A reluctant Government finally agreed to limited police action. Over a thousand people were arrested but many charged with dacoity, arson and causing grievous hurt were let off.

Ignoring the provisions of the Indian Penal Code, those charged with murder were released on bail. Even after the tactical retreat of the movement, little has been done to restore confidence. Farming, even in the richer terai areas, has come to a stop. In village after village one finds only women and children, the old and the infirm. Many of the peasants have left their homes for forest hide-outs; they appear in groups in the evenings and hold meetings before melting away into the night. In the more open areas, large fields are left unattended. The peasants have apparently gone for Kisan Sabha mobilisations. The movement is by no means over.

In Peking, the bandit regime of Mao-Tse-Tung applauded the work of their robots in Bengal. On the 28th June 1967, Peking Radio gave its assessment of the events in Naxalbari and the lesson to be drawn for the future.

"Under the leadership of the revolutionaries of the Indian Communist Party (Marxist) the tens of thousands of local peasants, who have small pieces of land or have no land at all and suffer the cruel exploitation of landlords and plantation-owners, began to arm themselves. They established their own political power and organised peasant societies, thus rebelling against the reactionary Indian Government and the landlord class. Defying laws, human and divine, and trampling under foot the reactionary Government's law which protects landlords, plantation-owners, and the reactionary Government, they ploughed the land, drove away the plantation-owners, used force to harvest the paddy in the fields of the landlords, seized grain, guns and ammunition from the homes of the big landlords, collected money and grain from the landlords and eliminated hoarding and speculation. They established people's courts to put on trial and punish the stubborn local bullies. . . .

#### BENGAL: THE COMMUNIST CHALLENGE

The emergence of this struggle in India... signifies a new stage in the Indian people's surging struggle against reactionary rule. This forecasts the approach of a great people's revolution in India with armed struggle as its major force . . . . The Indian people must proceed along the path pointed out by Chairman Mao . . . this is the road of armed revolution to oppose armed counter-revolution, the establishment of rural bases, the concentration of forces in the villages, using the villages to encircle the cities and finally taking over the cities."

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*BASES IN THE COUNTRYSIDE*

**3. Why Naxalbari**

THE NAXALBARI MOVEMENT was no movement for agrarian reforms as the United Front Government and the Communists would have people believe. The lie was nailed very neatly by the conscience of the nation, Jai Prakash Narayan, who declared in Calcutta on the 21st September that he did not think "that actions such as those in Naxalbari would give any relief to the landless labourers or share-croppers." "I am quite sure," added J. P. "that even under the present Constitution it is possible for the United Front Government in West Bengal to carry out radical land reforms. But I do not see any evidence of that yet."

Naxalbari is only four miles from Nepal, thirty miles from Sikkim, fourteen miles from East Pakistan and eighty miles from Tibet and the Chinese Communists. It lies in a narrow neck of Indian territory through which pass the life lines to Assam and to our armed forces in Sikkim, Bhutan and the whole North East Frontier. Nothing could suit the communist objectives better than to be in a position to choke off this jugular vein at will and when the time was ripe. The area is well-suited to guerrilla warfare. Communications are bad, the jungles make good hide-outs, and the population is sufficiently distressed to be intimidated into collaboration with the partisans. The Commissioner of the Division, Mr Ivan Surita, an able and experienced official, correctly described the gangs as armed guerrillas in a report to the Chief Minister. He added that these guerrillas have, ironically enough, received training from the Government of India's Special Security Branch cadre.

Communists learn their lessons well. They remembered that in 1953, the Moscow document, the Tactical Line, while stressing "the necessity and inevitability of armed revolution," had urged

the Indian comrades to learn from the example of the Chinese situation. A safe rear is important to the success of armed revolution. The Tactical Line document described how Mao's men were "repeatedly encircled by the enemy" and had to keep breaking away from this encirclement. "It was only when they made their way into Manchuria and found the firm rear of the Soviet Union that the threat of encirclement and threat of annihilation came to an end and they were able to launch that great offensive which finally led to the liberation of China." The document pointed out however that "the situation in India was different." The communists in India, apparently set out to eliminate that difference.

The communist cadres in the Kisan Sabha leading the movement in Naxalbari were doing no more than translating into practice the carefully laid plans of their leadership. At no time did the two communist parties say that they repudiated the Kisan Sabha. Biswanath Mukherjee and Hare Krishna Konar continued to be and still are, the President and Secretary respectively of this organisation's West Bengal unit. Both Communist parties therefore attempted to play down the movement. The C.P.I.(M) in a statement issued by its Politbureau on 20th June, that is after the worst happenings had taken place, characterised them as peasants' unrest on land problems" and dismissed them as "nothing extraordinary." The C.P.I. junior partners in the enterprise, followed suit eight days later. The Executive Committee of their West Bengal Council described Naxalbari as "a limited problem of agrarian relations and democratic freedom." But the attempt did not succeed. The facts could not be hidden.

The C.P.I.(M) leadership were on the horns of a dilemma. Their plans had been laid bare by the action of their cadres in Darjeeling District. The movement was clearly premature and had no chance of success. It showed their hand too soon, before they were quite ready. How then were they to react? To embrace the movement as their very own would have been the height of folly. Had not Lenin laid down that "when assessing any given situation a Marxist must proceed not from the possible but from the actual"? At the same time they could hardly say that these were not their tactics and their methods and their ultimate objectives. To repeat insistently that the movement was "an agrarian problem" was easy enough. It was more difficult to persuade the

Naxalbari comrades that a "tactical retreat" was advisable in the circumstances.

First they tried persuasion. Hare Krishna Konar visited Siliguri in May and met Kanu Sanyal and the others. They remained unconvinced. This was not the first time that the local cadres disagreed with the State leadership. A section of the C.P.I.(M) had for some time been clamouring for immediate revolution. Suitable amendments to the Party line had been "doggedly fought for" both at the West Bengal State Party conference and a little later at the Seventh Congress of the Party in October 1964. The amendments moved had not however varied to any significant degree from the official party line and the attempt appeared to be a move to embarrass the leadership. It was more a symptom of personal rivalry, rather than genuine differences over policy. The leadership had perhaps thought that the "extremists" and "ultras" as they now described the group in Naxalbari, would not carry their defiance as far as they had. In an attempt to enforce discipline the C.P.I.(M) State leadership formally dissolved their Darjeeling District Committee which was the stronghold of the "extremists" leading the movement. This only stiffened the resolve of the rebels and they got great heart and comfort when Radio Peking suddenly decided to take a hand.

The Chinese Communist Party hailed the Naxalbari movement as "the front paw of the revolution" under the leadership of Chairman Mao's thought. Radio Peking's broadside was preceded by a blistering attack in an editorial in the Peking People's Daily of 5th June, on the "so-called non-Congress Government of West Bengal." It accused the Government of "bloody suppression of the revolutionary peasants" and called the C.P.I.(M) Ministers "scabs and renegades," "revisionists," "running dogs of U.S. imperialism," and "lackeys of the big Indian landlords and bourgeoisie." What provoked Peking so? Why did they turn so viciously on their stooges, the C.P.I.(M) leadership, who had steadfastly, "kept up their fraternal attitude towards the Chinese Communist Party despite all the stupendous difficulties that stand in the way." Peking had never been happy at the thought of Marxists joining a "class-government" when they should be making revolution. The sight of the Marxist Ministers dithering instead of promptly rushing to the aid of the Naxalbari revolutionaries could not have been inspiring. Then

## BENGAL: THE COMMUNIST CHALLENGE

there was the police firing at Prasadjote in Naxalbari on the 25th May and collaboration with the revisionist C.P.I. in the United Front in trying to isolate the "extremists" and the "ultras."

The State leadership of the C.P.I.(M) tried in vain to show how helpful they had been to the movement. Writing in their party organ "People's Democracy" on the 16th July, Basavapunniah pleaded that "but for our Party and the United Front Government . . . the big *jotedars* and their big bourgeois landlord patrons would have long ago succeeded in mobilising the State's police machinery to swoop on the fighting Naxalbari peasants and drown them in blood." Another spokesman, Pannalal DasGupta writing in 'Mainstream' tried to show that the movement had no hope of success. He gave one example. There are 400 licenced guns in the Naxalbari, Kharibari, Phansideoa area, he said. Of these the rebels snatched away five guns while twenty-nine were surrendered to the police by the owners themselves. What chance, he asked "did the rebels have with five guns against the 300-odd in the hands of the forces of counter-revolution?" The leadership continued their attempts to show that they had not forsaken revolution and had not accepted the bourgeois and revisionist ideas of trying constitutional methods. A series of articles in their party organ "People's Democracy" denied that they "had ever laid it down that since there was a United Front Government in West Bengal there was no need for any movement now, and that all movements would remain confined within conventional limits." For example, they argued that "when more than 3,000 acres of land in Jalpaiguri and Darjeeling Districts were forcibly occupied by Kisan Sabha activities," the United Front Government did not view this act from the stand point of law and "no police measures had been allowed to be taken. On the contrary, Communist leader Hare Krishna Konar . . . went to Jalpaiguri and made arrangements for granting official recognition to the lands taken possession of by them."

The "extremist" leaders were not satisfied. One of their spokesmen Panchanan Sarkar expressed the mood of resentment and defiance tersely. "If members of previous governments were leopards" he said in an interview, "this one is full of foxes!"

The C.P.I.(M) "extremists" of Darjeeling District were not alone. They had supporters and sympathizers in other parts of the

#### WHY NAXALBARI

State, notably in Calcutta. Indeed, their inspiration was from Calcutta.

The State Committee of the C.P.I.(M) met on June 19th and 20th, to take stock of the situation. They noted that before the Party was able to "mobilise" and "strengthen itself in its own classes," this ultra-left political trend had become manifest and these elements had "already organised themselves into anti-Party groups." Promode DasGupta, General Secretary of the C.P.I.(M)'s West Bengal unit even alleged that the C.I.A. had infiltrated into the local leadership at Naxalbari! The State Committee "decided to declare that all elements belonging to such groups are outside the pale of the Party" and proceeded to expel nineteen Party members including Sushital Roy Chowdhury a member of the State Committee who had earlier treated an official request for an explanation with contempt. Roy Chowdhury, a veteran communist and experienced organizer, became a martyr to the cause. Around him rallied, not only the small band of "ultras" expelled from the party but a rapidly growing body of opinion within the ranks of the C.P.I.(M) itself. The Naxalbari group was born.

## PART II

### ***BASES IN THE COUNTRYSIDE***

#### **4. The Other "Bases"**

NAXALBARI was not the only area where the communists decided to set up their "bases in the countryside" from which they would "encircle and take over the cities." The tactics of terror and intimidation, dacoity and murder were not to be confined to the laboratory of Naxalbari alone. As Radio Peking put it, Naxalbari was only "a strong spark of the fire launched under Mao-Tse-Tung's thought. This apparently is only the beginning. The Indian revolutionaries will henceforth take villages, cities, districts, provinces and the entire country."

#### ***Sonarpur "Base"***

Sonarpur is a rural centre in the district of 24-Parganas only seven miles from Calcutta, and close to the Bay of Bengal. Communications are difficult. The villages are isolated. Beside the Rajbanshis, the area has a large proportion of the same adivasis to be found in Naxalbari, the Santhals, Oraons and Mundas. They are expert archers. A feature of the area is large tank fisheries called Bheris. The land ceiling laws exempt Bheris and the temptation to declare excess cultivable land as Bheris is strong. The area initially chosen by the Kisan Sabha for their operations covered about forty-two square miles, eleven villages and about fifteen thousand people.

The similarity with the happenings in Naxalbari is striking. The Kisan Sabha had been active in the area for some time and with the formation of the United Front Government they decided to "raise their struggle to a higher level." In the last week of May the local committee of the C.P.I. (M) organised a Kisan Sabha meeting and announced a campaign to enrol a large number of

#### THE OTHER "BASES"

members and to forcibly occupy Bheri land and the land of *jotedars*. The by now familiar campaign of intimidation produced a large crop of new members for the Kisan Sabha at 20 paise per head. The first incidents of forcible land seizure by armed communist gangs planting red flags to demarcate the area, took place on the 8th June, when 40 acres were occupied. By the end of July a total of 1,160 acres were in the hands of the Kisan Sabha gangsters including 23 acres belonging to the Ramakrishna Mission.

A particularly brutal incident took place in the area on 12th June. Early that day the Kisan Sabha organised a meeting and declared their intention to occupy the 280 odd acres of Bheris or tank fisheries owned by one who was a Congressman of long standing, later became an Independent and had recently joined the Bangla Congress. The same evening the Manager of the Bheri was assaulted with spears and axes and brutally done to death. It is reported that the tank fisheries were formed some years ago by submerging the land on which *bargadars* or share-croppers had been settled. They tried to resist being evicted from the land but without success. There is little doubt that the poor cultivators were in acute distress for the last few years and all their appeals and efforts were of no avail. They became easy prey to the carefully directed propaganda of the communists. Communism does not thrive in a vacuum. A callous and indifferent society without principles and often without conscience, aided by a corrupt and unfeeling government provides very suitable soil for this alien creed of violence and disorder. It is people driven to desperation who most readily listen to the communists, to their nonsense and to their lies.

The events in Sonarpur threatened to bring all cultivation to a grinding halt. The forcibly occupied lands could not be recovered as the Government pointed to the 18-Point Programme and declared that this too was a "democratic and legitimate struggle of the people." Then on August 18th, an uneasy "peace" was negotiated by the District Magistrate, 24-Parganas. The status quo at that date, which eminently suited the Kisan Sabha and the communists, was to last until the harvest. After the harvest in November-December "both parties would revert to their original positions." Clearly further trouble and unrest is

foreshadowed at that time, irrespective of whether or not the United Front Government lasts until then.

*The "Bases" in Nadia District*

We have already seen that Nadia district has a very high proportion of migrants and refugees, excellent raw material to be fashioned into agitators by the exploiting communists. The slogans in Sonarpur were "Naxalbari Lal Salaam" (Red salute to Naxalbari); "Naxalbari way is our way." These slogans were repeated in Santipur, Nabadwip, Ranaghat and Chakdah divisions of Nadia district. The Kisan Sabha drive for more members was launched with a campaign of looting of rice and paddy and forcible seizure of land. Kanu Sanyal of Naxalbari fame, kept himself in close touch with the "extremist" leaders of the area, mostly C.P.I. (M) cadres, and was known to have paid at least three secret visits to Sarbanandapur in the Santipur area, their main stronghold.

The district administration could not rely on any backing from the Government and the local "extremists" proceeded to take full advantage. Land "disputes" were referred to local "people's committees" where communist cadres handed down "awards". These "people's committees" still run ration and fair price shops in the name of the revolution and issue their own ration cards bearing communist slogans and the hammer and sickle symbol. There are dens in Santipur where unarmed policemen still do not venture. Confidential reports from the local authorities indicate that training centres for imparting lessons in rifle-shooting have been operating with impunity in Bagchi Bagan and other areas in Santipur. Sarbanandapur, boasts of cells where young boys and girls are given training in organised violence and guerrilla-type activities. This is a "higher stage" of the "food movement" of 1966 when the local police station was raided and at least three rifles and eighty-six rounds of ammunition were stolen.

The pattern should by now be clear beyond any doubt, and it was repeated with varying degrees of intensity all over rural West Bengal. Terror and intimidation to force the landless labourers and small peasants into joining the Kisan Sabha; looting of paddy and rice to stock the granaries of the partisans;

#### THE OTHER "BASES"

arson and dacoity to teach a lesson to those trying to resist by such force as is available; and general lawlessness to create confusion, to paralyse the will of the administration and to generate an appropriate "revolutionary" climate.

But the United Front, the United Front Government, the communists and fellow-travellers, all continued to insist that it was an "agrarian problem" caused by "land hunger." Radio Peking was nearer the truth. "Only through revolution by violence," said the broadcast on 28th June, "can they maintain their existence."

P A R T I I

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*BASES IN THE COUNTRYSIDE*

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## 5. The C.P.I.(M)'s Dilemma

NINETEEN LEADING members of the Naxalbari group were formally put beyond the pale of the Communist Party of India (Marxist) but we have seen that they had very considerable support within the Party. They flexed their new-found muscles quickly. Within ten days of the formal expulsion of Sushital Roy Chowdhury and his friends from the C.P.I.(M), their supporters carried out a dramatic raid on the office of the Party newspaper "Deshahitashi". The official leadership had to use the police to foil the "plot" to seize the paper. This was on 28th June. By the 6th July, the Naxalbari group had brought out their own weekly "Deshabratii" and promptly declared war on the official Party leadership. The first editorial said: "Our Party which was born out of the struggle against revisionism is sought to be captured again by the revisionists. The Party which is not the personal property of their leaders, must be saved from their hands." "Fighting against the leadership" the editorial was careful to point out, "does not mean fighting against the Party."

The Naxalbari group is in fact composed of several factions not yet forged into a single disciplined unit. Their common factor is the belief that the C.P.I.(M) leadership are in danger of letting down the "revolution" and need to be constantly pressurized to keep them on the right track. Deshabratii is not the only journal engaged in this task. There are seven others, Kalpurush (a monthly), Commune (a fortnightly) and Bidrohi, Santrash, Dakshin Desh, Chinta and Chhatra Fauz (all weeklies.)

The C.P.I.(M) leadership were hoist with their own petard. Their room for manoeuvre was severely limited. Broadly the choice before them was to show that they yielded to none in their devotion to "violent revolution" and head off the

### THE C. P. I. (M)'S DILEMMA

"extremists", or to go under and be dubbed as another "revisionist clique". They had no intention of going under. They gathered at Madurai on 18th August, to consider the unenviable situation in which they found themselves. The Central Committee admitted that "the facts are such as to stun any Communist."

More in sorrow than in anger they pointed out to the Chinese Communist Party, that by their radio broadcasts and writings they were "providing ample grist to the mill of reaction and counter-revolution in our country to their slanders of the 'hand of Peking'." They respectfully reminded the Chinese of their own embarrassment when they were faced with the 'slander of the hand of Moscow.' They quoted from Lenin and Stalin to show that a tactical retreat was called for in Naxalbari. Lenin had warned that "not every revolutionary situation gives rise to revolution; revolution arises only out of such a situation when to the abovementioned objective changes, a subjective change is added, namely, the ability of the revolutionary class to carry out revolutionary mass actions strong enough to break or undermine the old government, which never, not even in the period of crisis, 'falls' if it is not 'dropped'. "Next they quoted Stalin who had said in his "Problems of Leninism":

"The point here is not that the vanguard shall realize the impossibility of preserving the old order of things and the inevitability of its overthrow.. The point is that the masses, the millions shall understand this inevitability and display their readiness to support the vanguard. But the masses can understand this only from their own experience."

The 'extremists' have since answered with more quotations to show that Lenin and Stalin were really on their side! And the debate continues. There is something incongruous to the modern mind about grown men interpreting the events of our time and age with the aid of what was said fifty years ago in totally different circumstances. To the C.P.I.(M) the present countryside also "resembles in a way what was described by Lenin in the year 1901 regarding Russia." The C.P.I. agree. But then this is the outstanding characteristic of closed minds consumed by bitterness and hatred, and a mad craving for absolute power. The C.P.I.(M) begged their Chinese masters to understand that they were "too weak to shoulder the stupendous political responsibility that history is thrusting on its shoulders" and cried out in pain

that "it is at this very critical juncture that a dangerous attack comes against it from the Communist Party of China."

The C.P.I.(M) came to the conclusion that their "fraternal attitude" to the Chinese Communist Party had to be continued. They hailed the "great and historic contribution made by the Chinese Revolution to the cause", lauded "the tremendous victories scored by the Chinese Republic in the fields of industry and agriculture . . . in "education" and "health and well-being" and declared that they were "a shining example before the whole world." They seemed to feel that any other line, one even mildly attacking the Chinese Communist Party would throw them into the "revisionist party of the Dangeites." Therefore they had to keep attacking revisionism and head off the "extremists" at the same time. The Party was under no illusions about the "highly complicated and extremely difficult" situation in which it found itself and warned that its "political line will have to be carried out with great care, caution and circumspection." A significant ban on criticism of the Chinese Communist Party was imposed. "Any criticism that has to be made" declared the Madurai session resolution of August 1967 "should under no circumstances, overstep the stand taken by the Central Committee and the Politbureau. No individual, comrade or Party Committee, other than the Central Committee and Politbureau should be permitted to express their own views *publicly* criticising other brother parties' views or actions on which the Central Committee or Politbureau has not yet opined. All such views are to be kept inside the Party and conveyed to the Politbureau or Central Committee."

### *The Dilemma Resolved*

It was not long before the C.P.I.(M) realized the futility of this tight-rope walking. At their next meeting in Calicut at the beginning of November the final step was taken to head off the "extremists". P. Sundarayya, the C.P.I.(M)'s General Secretary said that on 1st November the Central Committee, meeting in Calicut decided that the Party had departed from the "basic principles" of Marxism-Leninism. This had affected the membership figures of the Party and had resulted in failure to elevate workers and militants to the level of party workers.

### THE C.P.I.(M)'S DILEMMA

While reiterating the Marxist-Leninist principle of "democratic centralism" that is to say unquestioned obedience to orders from above, the Party decided to concentrate even more on "mass contacts, mass organisation and mass struggles."

The C.P.I.(M) had pleaded that they were not yet ready for the "armed revolution" considered inevitable in communist thinking. The answer they got seemed to suggest that they were afraid of the water because they had not yet learnt to swim. These excuses were now to be brushed aside. One can therefore reasonably expect a quickening of the revolutionary tempo in the months ahead. The pressure exerted by Peking produced the desired results. The intervention of the Chinese Communist Party was highly successful.

P A R T   I I I

***ON OTHER FRONTS***

**1. The Pattern of Infiltration**

WHILE BOTH communist parties concentrate a great deal on the Kisan Sabha and we know that they pay a great deal of attention to trade unions, they do not by any means ignore other important sections of the community. Students receive special attention from communists. Student unrest due to a number of factors is that much more grist to the communist mill.

No study of Bengal would be complete without a word about the problems posed by the massive influx of refugees who after nearly twenty years are still destitute and still form a separate and distinguishable section of society. In this Chapter it is proposed to look at the record of the governments headed by the Congress Party in this State up to March 1967 and the wonderful opportunities that were presented to the communists to infiltrate and strengthen their movement.

**1. — THE STUDENTS**

Bengal has a surfeit of intellect and its capital Calcutta has long been accepted as the intellectual capital of India.\* That intellectuals prefer to shut themselves up in their ivory towers is the country's loss today, it may also be their own loss tomorrow. The question is not whether they shall continue to enjoy the luxury of venturing forth and retiring into their ivory towers at will; the question now being posed is whether ivory towers shall be allowed to exist at all or whether they shall be swept away by the totalitarian creed of communism where only Big Brother does all the thinking and the others practice the Marxist-Leninist prin-

\* See Appendix for table of newspapers and periodicals published in the State.

ple of "democratic centralism" which in non-communist language means unquestioning obedience.

### *The West Bengal Students Federation*

Bengal has seven universities. The largest Calcutta has now grown so enormous that it is hardly able to function effectively. It has 177 affiliated colleges, and 210,000 students of whom as many as 10,000 are post-graduate students. Calcutta University has always been a stronghold of the West Bengal Students Federation a part of the All-India communist front (All-India Students Federation). After the 1964 split in the Indian Communist Party it was inevitable that periodic clashes should take place between their two student wings but on the whole they managed to work together.

This year's elections to the West Bengal Students Federation were complicated by the emergence of the Naxalbari Group in the C.P.I.(M). The two fought each other so effectively that for the first time since 1964 the C.P.I. gained an absolute majority claiming fifty-six of the total of eighty-four seats. The C.P.I.(M) faction secured only five and the Naxalbari Group got as many as twenty. They showed their strength when they decided to march on Writer's Buildings (the headquarters of the State Government) in Calcutta on 12th September. The excuse was police firing in self-defence on an unruly mob at Howrah station (Calcutta's principal railway station) the day before. Slogans were shouted denouncing the "anti-people, anti-students policies of the United Front Government!" The most insistent slogans had little to do with the students' immediate interests. They shouted: "Negotiate a boundary settlement with China"; "Wage no war against China"; and "Mao-Tse-Tung Zindabad!" Was it a coincidence that on the same day the newspapers carried the news of the Chinese shelling of our defence positions at Nathu La? While Indian blood was being shed in defence of the country's honour, over five hundred 'patriotic' students were demonstrating in Calcutta to give aid and comfort to our enemies. And Ministers of the United Front Government left their offices to meet these students and discuss their 'demands' with them.

There was another massive demonstration a few days later on

the 28th September, again, outside Writer's Buildings. The communist-led students had come to present "a charter of educational demands." The Education Minister Jyoti Bhattacharya, C.P.I. (M) who had come out into the street to meet the demonstrators "urged them to resist any conspiracy to oust the United Front Government." In return he promised to "seriously consider" the students' demands which were, inter alia;

- (a) concessions to students in buses and trams
- (b) amendment of the University Acts to make "undemocratic and reactionary demands" by University authorities impossible.
- (c) the syllabus in political science in particular, should be framed "in consultation with the students."

The Minister could justifiably say that he was only carrying out the 18-Point Programme of the Government. Did not the Programme promise "reform of educational administration"? The demonstration took place following the students' union elections in one of Calcutta's colleges where the victorious students beat up one of the teachers so severely that he was removed to hospital in a precarious condition. They also inflicted multiple knife injuries on other members of the teaching staff and some loyal students who resisted them.

Student unrest and indiscipline are chronic conditions in many educational institutions in Bengal particularly in Calcutta. That similar symptoms are visible elsewhere in the country is not a satisfactory answer. We drew up a questionnaire and sent it to prominent personalities connected with educational institutions in Calcutta. It read:

QUESTIONNAIRE

1. Would you say that the present system of selection of students for university education has any relationship to the problem of student unrest? Are there any other reasons for student unrest?
2. Do the Students Federation and different Students Unions play a desirable and constructive role in the life of the student? Is there any truth in the suggestion that the Unions are inspired and financed by subversive agencies?

#### THE PATTERN OF INFILTRATION

3. What is the significance of the recent elections to the Students Federation?
4. Exploitation of students by political parties is undeniable. Which party or parties are most to blame and why?
5. Would you say that some courses of study or their treatment by teachers and professors is politically motivated?
6. How would you restore the importance of learning in the life of the student?

Of the replies received two are particularly interesting and are reproduced in full below.

The first is from Sri Satyapriya Roy, President, All Bengal 'Teachers' Association.

#### *Sri Satyapriya Roy*

"The country is passing through a transition. Different social forces and ideologies are in sharp conflict during this period. Students' unrest is no isolated incident in the national life. It is part of a bigger and deeper unrest in the national life of the country.

Education is, as it is now, isolated from life. The old colonial system of education has been still continuing. This drift in the field of education is also partly responsible for the unrest among the students. It has nothing to do with the system of selection.

Every student should be politically conscious and the college students should in the interest of the country take active part in politics. Students who have no political mooring or ideology before them tend to go astray and behave irresponsibly. They are swept away by every passing wind. During our school days, our participation in the freedom fight developed in us a sense of responsibility and discipline. Nowadays any fight for bigger political change in the country can make the students responsible and disciplined. From this point of view students' unions definitely play a desirable and constructive role.

Exploitation of students is a myth. All parties having any ideology for the improvement of the living conditions of the people of the country should educate the student community.

Politics is life in its entirety in a welfare state and any word

spoken or heard cannot avoid political inclinations of the speaker or the listener.

Learning should be brought closer to real life and all its problems. It should definitely be made purposeful. That will be an incentive to the students and will help restore the importance of learning in the life of the student."

Sri Satyapriya Roy is also a leading member of the C.P.I.(M) and contested the last elections as a Party candidate.

The following answers were received from Professor Amlan Dutta, who has no political affiliations. He is one of Bengal's best known intellectuals, an humanist in the liberal tradition, a man of great independence of mind, and devoted to the cause of education.

*Professor Amlan Dutta:*

"Answer (1) Too many students are selected for the general courses in higher education: (i) A higher proportion should be directed to technical and vocational lines. (ii) The Master's degree in Arts should count for nothing in ordinary clerical and other jobs, and this reorientation of job selection policy should be clearly stated and given publicity.

Answer (6) Teaching methods and the examination system should be radically changed. There should be (i) a conscious effort to link up principles with contemporary and local problems; (ii) more tutorial classes and seminar discussions, and final results should depend on these as well as periodical examinations which should be more frequent. Under the existing system, a student's vocation is not a full-time job; thus the present system forces students into idleness, dissipation and indiscipline.

Answer (5) Some teachers give a political slant to what they teach. But this is not the main defect of our system of teaching. A more serious defect is that what is taught is not brought into relation to living experience and problems of society and thus appear pointless. Students are led to memorise

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#### THE PATTERN OF INFILTRATION

rather than to search the meaning of what is presented to them.

Answer (2),

(3), and (4) Students' unions in Calcutta are dominated by political parties in much the same way as labour unions are.

A student cannot, of course, be stopped from holding any particular political opinion or even from seeking membership of a political party. But there are certain interests and activities which students *as students* should regard as important and try to promote. These include, for instance, debates and symposia representing all points of view, movements for better library facilities for all students, financial assistance for poor students, medical care for sick students, and certain kinds of social work. Students' unions should strive for these common aims of all students, and it is a pity to allow politics to divide students in this kind of work.

It is natural that social unrest should be reflected in student movements. But no educational institution can work properly unless certain rules of conduct and discipline are observed. Students should have an opportunity to present their grievances to the head of the institution and discuss these in properly constituted committees. But they should not be confirmed in the view that the best way to get their demands accepted is to use force. It is an error to believe that educational problems can be solved by the authorities following the path of least resistance rather than clear principles."

#### 2. — R E F U G E E S

Attention has been drawn in an earlier chapter to the problems created by the migration of large numbers of people into West Bengal. It is not intended to present a complete treatise on this very vexed problem. It is important nevertheless to sketch in outline the record of the Congress Party and the conditions they

created, and the opportunities they provided, to the communists.

*"Indralok" Refugees*

It is frankly unbelievable, but true, that for more than eight years up to 1956 nearly five hundred refugee families lived on the platforms and lobbies of Sealdah station (Calcutta's second railway station). In 1956 they were moved to two premises both hardly suitable for human habitation. Two hundred and forty-four families were moved to Indralok Studio premises in Tollygunge, and two hundred and seventeen families to the godown of a jute mill in Cossipore (both premises located within the Calcutta Metropolitan area). They were left there for another ten years. The Congress Governments in the State spent on an average twenty million rupees every year for at least fifteen years, on rehabilitation and relief work, and one comes to the conclusion, on the evidence, that if all the money allotted had been used for the purpose intended, the problem would have been solved long ago.

*The Congress Record*

Deputy Chief Minister Jyoti Basu, C.P.I.(M) has given some details of the shocking abuse of authority and misuse of funds under the previous regime in the districts of 24-Parganas, Bankura, Purulia and Midnapore following an investigation undertaken at his instance. The results of the investigation show how public funds were shamelessly misused for the benefit of the Congress Party in the pre-election year. It should be stressed that the money was meant for the relief of the poor and the distressed. The total amount involved was Rs 4.36 crores (Rs 43.60 million). The money was always spent through the local self-government bodies, the Zilla Parishads and Anchalik Parishads, dominated by the Congress Party. In every case without exception the Chairman and Vice-Chairman were Congressmen.

The modus operandi was uniform in all the districts. Chairmen and Vice-Chairmen sanctioned schemes of test relief and gratuitous relief without placing them before the Finance Standing Committees of the Parishads as provided by Government rules. No proper scrutiny or technical examination of the schemes was

#### THE PATTERN OF INFILTRATION

allowed. Actual work done bore no relation to the work for which payment was made. Books of accounts were not written up for months and in some cases they did not even balance. Amounts received were not entered in the books.

In the 24-Parganas District the total amount sanctioned in the pre-election year was Rs 83.58 lakhs (Rs 8.36 million). Apart from the glaring irregularities mentioned earlier, a sum of Rs 8,50,000 remains unaccounted for, to this day. In Bankura District the total amount sanctioned in the pre-election year was raised to Rs 75.54 lakhs (Rs 7.55 million) from Rs 20.47 lakhs (Rs 2.05 million) in the previous year. Cheques totalling at least Rs 84,000 were not entered in the books of the Anchalik Parishad. The books did not balance and were not written up for months. Gratuitous relief was proved to have been distributed to non-existent persons. Physical verification of only nine per cent of the test relief work done showed that a sum of Rs 1,44,817 had been misappropriated.

In Purulia a total amount of Rs 38.69 lakhs (Rs 3.87 million) was sanctioned. Eighty per cent of the test relief work had not been approved. After the formation of the United Front Government the Parishads hastily back-dated the approval. In three specific cases the paymasters appointed by the Presidents of Anchalik Parishads were found to be fictitious persons. The advances made to them have not yet been adjusted. Midnapore is the home base of Ajoy Mukherjee (Bangla Congress). The former Congress Relief Minister also comes from this district. The total relief in cash and kind totalled Rs 1.57 crores (Rs 15.70 million). At the behest of an ex-M.L.A. of the Congress Party schemes were taken up, money sanctioned, and pay-masters appointed without reference to any one in authority. Muster rolls of payments made were not available.

#### *The Communist Opportunity*

It was not difficult for anyone to improve on this disgraceful record. The new Government took a number of new administrative measures with commendable speed. They regularized refugee colonies, swept away the time-wasting regulations for obtaining electricity connections there, and for digging new tubewells. The cost of development of the land and the cost of provision of

water supplies were no longer to be taken into account in determining the cost of the land to the refugees. The "Indralok" refugees were at last rehabilitated in three centres in July 1967 having spent the best part of twenty years in appalling living conditions. In considering the factors responsible for the success of the communists in West Bengal full credit must be given to the Congress Party for the part they played in creating the right conditions, by their incapacity, by their corruption, and by their greed. It is useful to recall here that ex-Chief Minister P. C. Sen (Congress) once advised the people to eat green bananas if they could not get rice. No wonder that the Swatantra leader M. R. Masani, often refers to Congressmen as India's Bourbons who have learnt nothing and forgotten nothing.

The Relief and Rehabilitation Minister Niranjan Sen Gupta C.P.I.(M) was able to come to the Assembly in July 1967 with a supplementary demand of Rs 3.85 crores (Rs 38.57 million) for his Ministry raising his total budget to Rs 5.77 crores (Rs 57.70 million). Of the total budget, only Rs 75 lakhs (Rs 7.5 million) was to be for capital expenditure and Rs 50 lakhs (Rs 5 million) as loans.

Of the balance of over Rs 4.50 crores (Rs 45 million) as much as Rs 1 crore (Rs 10 million) was on account of "loans written off" and the rest was to be for "Miscellaneous expenses." A special Rehabilitation Committee had been appointed, the Minister announced, of "people with knowledge of and experience in rehabilitation problems." This Committee would also help the Government to decide which loans were to be written off and how the large sum of Rs 3.52 crores (Rs 35.20 million) was to be spent under the head "Miscellaneous expenses." A glance at the composition of the Committee is revealing. Apart from the Joint Secretary of the Relief and Rehabilitation Department who functions as Member-Secretary, the other three members are Samar Mukherjee [C.P.I.(M), labour leader] Chairman, Gopal Banerjee (C.P.I., trade unionist) and Dr S. Sen [C.P.I.(M) sympathiser, and statistician]. The communists have built the machinery of infiltration on the base of popular action, and it will now be that much more difficult to deal with it.

## PART III

### ON OTHER FRONTS

#### 2. The Administration Demoralised

"THE STATE" according to Marxist-Leninist theory is "a special organisation of force; it is an organisation of violence for the suppression of some class." "The essence of State power, we know" say the communists, "lies in the army, police, bureaucracy, judiciary and jails." They have plans for each of them in the grand design to capture state power by violent revolution.

##### *The Bureaucracy*

They know that in the governments they have joined much of their work can be frustrated by a strong and disciplined bureaucracy. How then are they to deal with this "evil" of a troublesome bureaucracy. The Political Report adopted by the Central Committee of the C.P.I.(M) in Calcutta in April 1967 gives one suggestion. "Transfer of officers from one department to another, punishment of the utterly recalcitrant ones and relying on the good-natured and dutiful officers etc. might mitigate the evil but," the Report adds, "can never eradicate it". "This limitation", the Report continues, "imposed on democratic non-Congress Governments of the states will have to be realized and the people be made aware of it."

The United Front Government promptly proceeded to "mitigate the evil". On 13th April 1967, under the Chief Minister's orders no less than eleven top officials all belonging to the Indian Administrative Service were given transfer orders. This was the first step.

The second step was taken on 2nd June 1967, when a Government Press Note formally announced a decision taken earlier and which was already being acted upon.

## BENGAL: THE COMMUNIST CHALLENGE

"No person will in future be declared unsuitable for appointment to Government service or employment in any undertaking or organisation wholly or partly owned by the Government or any private sector undertaking of national importance," says the Press Note, "by reason of association or connection with any political party group or organisation of any kind." Persons dismissed from Government service because they were security risks were ordered to be reinstated.

Political meetings continue to be held inside the Secretariat, the Customs House, the post office, and other public offices, and superior officers are unable to enforce even the barest minimum of discipline. But the United Front and the United Front Government say these are "democratic and legitimate struggles of the people."

### *The Police Force*

It is a long-term aim of the communists to infiltrate the police force and several C.P.I.(M) & C.P.I. members are working hard in this direction on a full time basis. The procedure is to "educate" the ranks of the police force to a realisation that they are being "used" to support a "class-society" and that it is their duty to assist the "democratic forces" working for a fundamental change in the existing "capitalist state." Attempts have been made to gain official recognition for the communist led unions of policemen. That much greater progress has not been made is due to the loyalty and sense of discipline at the highest levels in the force.

On the 22nd May 1967 at about noon trouble started in Howrah (near Calcutta's principal railway station) over the right of some Muslim stall holders to say their prayers at a particular place. Mr M. Elias their leader was addressing a meeting spelling out their right to hold prayers there. The Officer-in-Charge of Howrah Police Station ordered the arrest of Mr Elias and he was removed to the police station and mercilessly beaten by policemen. The Police Superintendent ordered the arrest of the Officer-in-Charge whereupon a group of policemen surrounded the police-station.

They stoned the building and stormed it with lathis (massive sticks) in protest. The attack appeared to be directed against the District Magistrate and the Sub-Divisional Officer who were pre-

#### THE ADMINISTRATION DEMORALISED

sent in the police station building at the time. The Chief Minister and three other Ministers had to visit the scene of the incident to help restore order. This was the first instance where policemen had rioted and stormed their own headquarters and is an indication of the general state of lawlessness in the State. On the following day the West Bengal Police Association at a meeting in Calcutta decided to complain to the Chief Minister about "harassment and humiliation of police personnel."

Police stations in the districts were often surrounded by well-organised communist mobs shouting abuse and revolutionary slogans. "Naxalbari Lal Salaam!" (Red Salute to Naxalbari); "Mao-Tse-Tung Zindabad" (Long Live Mao-Tse-Tung); and "Amar nam, tomor nam, Vietnam" (My name and your name is Vietnam) were common slogans. The police could take no action. Chief Minister Ajoy Mukherjee had publicly said that he saw no harm in people shouting these slogans.

Bhowanipore Police Station (in Calcutta) was surrounded on 1st October by an angry mob of over two hundred demonstrators under the lead of a C.P.I.(M) Municipal Councillor. The demands are worth recalling. They were:

- (a) immediate transfer of the Officer-in-charge of the police station,
- (b) prior consultations with the local "citizen's committee" before arresting anyone from the area, and
- (c) non-interference by police in any labour trouble in the area.

Small wonder then that frustration and a sense of helplessness grew in the ranks of the police force. The new Government many of whose members had fallen foul of the police in their demonstrations and activities before the elections now saw the opportunity to turn the tables. The revised estimates presented to the State Assembly by the Deputy Chief Minister, Jyoti Basu, C.P.I.(M) contained liberal increases on account of additional dearness allowance to all lower paid categories of Government employees. More money was provided for Relief and Rehabilitation and for most other spending departments. But in the allocation under the head "Police" there was a reduction of Rs 48 lakhs (Rs 4.8 million).

#### BENGAL: THE COMMUNIST CHALLENGE

Their activities were hamstrung. We have seen how the police were held back in Naxalbari. They were soon to see similar restrictions imposed upon them in dealing with the massive campaign of terror and intimidation let loose by industrial workers under communist direction, in many cases within walking distance from Police Headquarters in Calcutta. Yet all this need not have happened. The police form part of the Home Department over which Chief Minister Ajoy Mukherjee personally presides. Ajoy Mukherjee started his Chief Ministership as the most popular of all his Ministers. That he chose to throw away this asset and play into the hands of the communists is his tragedy and what is much more important the tragedy of his beloved Bengal.

P A R T   I I I

***ON OTHER FRONTS***

**3. The Government Goes on Strike**

REFERENCE has been made earlier to six ministers of the United Front Government journeying to New Delhi to demonstrate before the Prime Minister's house in support of the State's demand for more food. This suited the purposes of communist propaganda, although it must be conceded that the Central Government often gives the impression that what you do not demand you do not get and if you can press your demands by demonstrations and a little violence your demands are likely to receive priority. Confident that their demands would not be met the United Front Committee, the super-cabinet, had decided to follow through with a 24-hour general strike or bandh throughout West Bengal on 24th August.

When the Prime Minister and the Food Minister took the wind out of the sails of the West Bengal Ministers by virtually conceding their demands the latter were in a quandary. Plans for the 24-hour bandh had reached an advanced stage and it would have been a pity to spoil it all by calling it off. The United Front Committee met in Calcutta. The Bangla Congress, Forward Bloc, P.S.P., S.S.P., Lok Sevak Sangha and even the Bolsheviks thought that the United Front would look a little foolish if they persisted with the Bandh in the circumstances.

The Food Minister Dr P. C. Ghosh had earlier publicly disapproved of staging the demonstration in Delhi and did not attend the United Front meeting to mark his continued disapproval of their tactics. But the communists and their allies carried the day by a majority of one party in the United Front. To make the general strike appear purposeful they expanded its objectives to include "strengthening the campaign against hoarders and blackmarketeers; to expose the conspiracies of the Congress and

#### BENGAL: THE COMMUNIST CHALLENGE

reactionary forces and to protest against the Central Government's policy of denying West Bengal's legitimate demands for food." They had conveniently forgotten their own propaganda before the elections that "even without a ton of grains from the Central store" West Bengal had a "surplus of 10.53 lakh tons." (1.05 million tons.)

The hollow solicitude for the people of the State was exposed by the Indian National Trade Union Congress leader Kali Mukherjee who advised workers to oppose the bandh as it was politically motivated. On the other hand the Government used all the machinery of the State to ensure that the bandh was observed. The Chief Secretary to the Government was directed to assure their employees that no disciplinary action would be taken against them if they were absent. For the first time newspapers were not exempt from the bandh and for 24 hours on the 24th August the State Government gave itself a holiday from government and caused unnecessary hardship to the vast population of the State. Workers in private industry lost a day's wages, production was lost, and 4,000 tons of foodgrains which had arrived in Calcutta could not be unloaded. Special permission to unload the much needed food was refused by the United Front Committee.

P A R T I V

**"UNITY-STRUGGLE-UNITY"**

1. Plans for the Proletariat

OF THE TOTAL of 4.2 million industrial workers in India as many as 826,000 are in West Bengal concentrated mostly in the industrial belt that stretches from Calcutta to Asansol and the coal-fields beyond, a distance of about 125 miles. Not so long ago West Bengal had the highest number of industrial workers in the country but over the last few years Maharashtra on the west coast, first equalled and then surpassed West Bengal. The reasons were many. The following table compiled from the latest available official figures suggests at least one very important reason.

	Industrial Labour	Total man days lost (in millions)		Man days lost per worker	
		1964	1965	1964	1965
West Bengal	826,000	2.02	2.75	10.9	11.9
Maharashtra	870,000	1.58	1.20	5.5	3.2

One factor that both states have in common is the attitude of a section of employers. Their vision is narrow and their objectives limited. Operating in a sheltered market of shortages they turn out shoddy products at high prices. The system of Soviet-style planning that has been imposed upon this country for the last fifteen years and which the reconstituted Planning Commission threatens to inflict upon the people once again from 1969 in spite of the lessons of the past, perpetuates this kind of thinking. Where economic activity and profits depend more on obtaining the right kind of licence and the most lucrative type of permit

than on real entrepreneurial skill, more and more of the wrong kind of individual is encouraged. The total absence of competition in many fields helps these individuals in their primary task of making a quick rupee with the help of the dishonest politician in office. The interests of both consumers and labour suffer.

Where everything and everybody can be 'managed' it is not to be wondered at that some employers after deducting the provident fund dues from the salaries of their staff do not pay the amounts into the provident funds: either not at all or after the money has been turned over in some other economic activity. Trade union leaders are bought off, and genuine grievances brushed aside by these methods become cancerous growths later. Labour welfare legislation is disregarded and attempts to enforce these measures are circumvented by the same corrupt methods. And the equally short-sighted and corrupt politician surveys the scene and announces that the country is making rapid industrial progress.

Unless one is prepared to suggest that Bengal has more of the wrong kind of business man and industrialist the question is not answered. In a word the answer seems to lie in the welcome that conditions in Bengal offer to the communists and their methods. "The figures for 1966" they predict confidently "will reveal an astonishing rise in the strike activity of the working class." They go on to promise: "But this is just the beginning of things to come." Their plans for the working class have nothing to do with improving their productivity and their earnings and their standard of living. This is dismissed as "crude economism." "Our tasks on the trade union front" say the C.P.I.(M) "are directly linked with our political objectives . . . for a People's Democratic Revolution paving the way for a socialist revolution." These tasks they say "aim at organising a disciplined working class with revolutionary socialist consciousness, drawing it nearer the Party, with its best elements joining the Party in hundreds, enabling the class as a whole to play its historic political role in the revolutionary struggle."

What is this "socialist consciousness"? "A worker can be said to have developed socialist consciousness" lays down the important C.P.I.(M) document, Tasks on the Trade Union Front, adopted at the Nurmahal session in October 1966, "when he realises . . . that his struggle for emancipation is not only

## PLANS FOR THE PROLETARIAT

against a particular employer or a set of employers but against the state of the capitalist class which he must replace with a state of his own. Unless therefore he realises that his interests are in complete contradiction with the existing social order and that he must wage continuous political battle against the rule of the capitalist class, he cannot be considered to be really class-conscious. It is this class-consciousness that the Party has to gradually create . . . to lead the workers from the elementary trade union consciousness to this higher consciousness."

To achieve this frankly political objective the same document recommends the classic communist tactics of united front from above and from below. When and where calls for united fronts from above are given, say the communists will depend on the strength of the reformist and revisionist leadership, in other words on the strength of trade union leaders of other persuasions whom they want to isolate and outmanoeuvre. "But" says the resolution on Tasks on the Trade Union Front, "the most consistent and determined operation of the tactics of united front from below constitutes the real bolshevik method of mobilising the masses." This "main pillar of our tactics" means bypassing the leadership of other unions and appealing for unity and joint action directly to their general membership. "Through struggle from below," they explain, "we carry the initiative for unity to the rank and file of the workers and take it out of the hands of the reformist leaders."

With the objectives clearly stated and the methods worked out, all that remained was to decide where to strike first. This too was laid down. "The Party has to first give attention to the main areas where major and basic industries are concentrated . . ." said the Central Committee of the C.P.I.(M). This left little doubt that Bengal and the industrial belt around Calcutta were high up on the list of targets.

The labour portfolio in the United Front Government went to Subodh Banerjee a leading light in the Socialist Unity Centre, a somewhat ambiguous name for an organisation that believes in "permanent revolution." A staunch ally of the C.P.I.(M) it stands even more to their left if this is possible. The election manifesto of the Socialist Unity Centre suggested this plank in the platform of the United Left Front of which it is a part. "Whether in office or not, the United Left Front shall . . . dispel the illusion of

parliamentary democracy, steel the people in revolutionary teachings . . . and prepare the ground for revolutionary transition from capitalism to socialism." It poured scorn on the "fond hope" of our people that "all their problems can be solved by parliamentary means" and declared that the people must be freed from this parliamentary illusion. . . ." They said they approached "every question from the point of view of accelerating the course of revolutionary preparation." Contemplating the capture of the governments in West Bengal and Kerala they declared that this would "create favourable conditions for revolutionary preparations." The writing was clearly on the wall.

P A R T I V

**"UNITY-STRUGGLE-UNITY"**

**2. The Gherao Movement—I**

THE BIGGEST festival in Bengal the Durga Puja celebrates the advent of the Goddess Durga on earth and her stay until her return to her heavenly abode at the end of the celebrations. The Pujas are generally in September-October depending on the calculations of the Hindu Almanac and coincide with remarkable accuracy with the beginning of the winter season. They also coincide with demands for Puja bonus and for some years now one has been familiar with the spectacle of industrial unrest on the eve of the Pujas. This has often led to workers demonstrating in front of their employers' offices in large numbers to press their demands. On the odd occasion, the employer or his representative has been confined to his room or office for a short time to emphasise the demands further. When it led to violent interference with freedom of movement it was customary for police assistance to be requisitioned for the relief of the imprisoned individuals. These actions of intimidation and forcible confinement collectively called the 'gherao' have not therefore been entirely unknown to managements in this part of the country. The happenings of the last few months however, have made the word 'gherao' Bengal's latest contribution to the English language, and one that is unlikely to be easily forgotten.

Like the Kisan Sabha in the villages the communist dominated trade unions were not slow to take advantage of the formation of the new government. In March 1967 they launched on an unprecedented campaign of terror and intimidation. This campaign was inspired by the Labour Minister and its course greatly assisted by the actions of the Government as a whole. On 14th March 1967 the following decision was taken by the Cabinet.

BENGAL: THE COMMUNIST CHALLENGE

"No. 6/1.

DECISION IN CABINET  
*held on the 14th March, 1967.*

Cabinet considered the situation created by the 'Gherao' of industrial establishments by their workers resulting in the confinement of the managerial and other staff and directed that in such cases the matter should be immediately referred to the Labour Minister and his directions obtained before deciding upon Police intervention for the rescue of the confined personnel.

Should be communicated  
to Secretary Lab. Dept.

Sd/- A. K. MUKHERJEE  
*Chief Minister."*

On the 27th March 1967 the following 'Confidential' circular was issued by the Government as a result of the Cabinet decision.

"No. 513 P. C. Confidential.

Dt. 27th March, 1967.

WEST BENGAL HOME DEPTT. POLITICAL

To 1. The District Officer,  
2. The Commissioner of Police, Calcutta.

*Ref: Government Memo No. 138 P.S.  
dated 7th February, 1956.*

In supersession of the instructions contained in the above-mentioned memo, the undersigned is directed to state that it has now been decided that, in cases of gherao of industrial establishments by their workers resulting in the confinement of managerial and other staff, the matter should be immediately referred to the Labour Minister and his directions obtained before deciding upon Police intervention for the rescue of the confined personnel.

Sd/- A. K. DUTT  
*Joint Secretary to the Government  
of West Bengal."*

The Circular dated 7th February 1956, referred to above was issued under a Congress administration and the relevant portions

#### THE GHERAO MOVEMENT—I

of it are given in the Appendix. The Calcutta High Court was later to pass a comment on the legality of this circular also. The first phase of the gherao movement was from March to June. Workmen refused to obey orders. They assaulted supervisory and managerial staff so severely as to need prolonged hospitalisation. They refused to leave factory premises and indulged in loot and destruction of those premises. Loyal clerks and workmen were also the targets of this kind of mob fury. The Labour Minister when approached would condescend to 'persuade' workers to lift gheraos where he considered that the time was ripe and flatly refused to intervene in other cases. The Chief Minister invited all aggrieved employers and managers to seek his personal intervention at any time of the day or night. While the gesture was commendable and in the odd case he was able to help, the impact of this one man police force was predictable. The gheraos continued.

Communist ministers joined Subodh Banerjee in insisting that this phenomenon was only a spontaneous response to the attack launched on workers by the employers. Yet their own private statements give no hint of this. The Political Report adopted by the C.P.I.(M)'s Central Committee in Calcutta in early April gives an analysis of the crisis in industry in these terms.

"The crisis in the industrial field is already hitting hard several branches and sectors of the industry. The installed capacity in a number of big industrial plants, in both the privately owned and the public sector undertakings is lying idle as neither an adequate internal market is available nor the external market is opened to their full production. Several engineering concerns, particularly small and medium, are facing an acute crisis partly because of the paucity of raw material imports which are needed and partly because of the shrinkage of the market. . . . Lay-offs, lock-outs, retrenchments and closures have become quite frequent phenomena these days. . . . Such are the big prospects and great opportunities that the present economic-political crisis unfolds before the proletariat and its Communist party in our country."

In other words there is no place in communist plans for any constructive attempts to solve the crisis, indeed the solution of these problems and the easing of the hardships of the workers do not enter into the picture at all. Communists see in the sufferings

of our people only "big prospects" and "great opportunities" for the international communist conspiracy.

Chief Minister, Ajoy Mukherjee ventured to suggest that these methods were going a little too far. He convened a tripartite conference of labour, management and government and succeeded in negotiating a truce on 13th April. He even expressed the hope that this would lead to "permanent industrial peace." The truce was promptly broken and the gheraos continued unchecked. The Union Home Minister, Y. B. Chavan addressing the Eastern Zonal Council in Calcutta on 19th May, boldly declared that "it was no longer a matter of isolated spontaneous demonstrations" and that "gheraos had become a movement." By the middle of June a leading Chamber of Commerce put out its conservative estimate of the effect of the gheraos on production and revenue. Loss of production was estimated at Rs 20 crores (Rs 200 million) and the Government was thought to have lost at least Rs 5 crores (Rs 50 million) in revenue. Over 3 million man-hours had been lost in three short months.

The hard pressed managements and employers turned to the judiciary for relief. Court orders were issued giving the police 'search warrants' with instructions to find the imprisoned persons and to produce them in court. They were then released on personal bonds. The matter also came before the Calcutta High Court which issued an interim injunction restraining the State Government from giving effect to its Confidential Circular of March 27. Ministers continued to insist that they were determined to protect the "legitimate and democratic rights of workers." They lost no time. The interim injunction was issued by the High Court on June 8. Later the same day the Cabinet met to consider the situation. They had to tread carefully if they were not to be hauled up for contempt of court. How carefully they trod will be apparent from the following extract from the minutes of the Cabinet meeting held that day.

"No. 281.

DECISION OF CABINET  
*held on the 8th June, 1967.*  
*Home (Poll) Department*

*Subject 2: Issue of a fresh circular on action to be taken in cases*

THE GHERAO MOVEMENT - 1

*of Gherao of Commercial and Industrial Establishments by their workers.*

Cabinet noted that in pursuance of the High Court's injunction in this behalf orders have been issued to local officers directing that no effect is to be given to G.O. No. 513-PS dated 27th March 1967 until further instructions. Cabinet also decided that the circumstances in which the Circular was issued should be clearly explained in the different proceedings now pending in the High Court, it being left to the High Court to decide on the validity of the Circular.

Cabinet further directed that a fresh Circular should be issued to local officers on the following lines:

"Government would like to impress upon all officers specially those connected with maintenance of law and order, that the Police must not intervene in legitimate labour movements and that in case of any complaint regarding unlawful activities in connection with such movements, the Police must first investigate carefully whether the complaint has any basis in fact before proceeding to take any action provided under the law."

CALCUTTA

The 9th June, 1967.

Sd/- A. K. MUKHERJEE  
*Chief Minister.*

A fresh Circular was accordingly issued on 12th June 1967, in the terms laid down by the Cabinet. The text is reproduced below:

GOVERNMENT OF WEST BENGAL  
*Home Department*  
*Political*

"No P.914-P.S.

Calcutta, the 12th June, 1967.

From:

Sri A. K. Dutt, I.A.S.,  
Joint Secretary to the Govt. of West Bengal.

To:

1. The District Officer,
2. The Commissioner of Police, Calcutta.

*Subject: Police action in labour movements*

Government would like to impress upon all officers, specially those connected with maintenance of law and order that the police must not intervene in legitimate labour movements and that, in case of any complaint regarding unlawful activities in connection with such (sic) movements, the police must first investigate carefully whether the complaint has any basis in fact before proceeding to take any action provided under the law.

Sd/- A. K. Dutt  
*Joint Secretary to the Govt.  
of West Bengal."*

It is clear therefore that this Circular issued under Cabinet orders was a barefaced attempt to circumvent the High Court's injunction. The final verdict of the High Court in the gherao cases is dealt with in a later Chapter. For the time being it should be noted that the police, under no possible doubt now over the Government's intentions, felt that they had little option but to remain passive spectators. And the gherao movement, further strengthened, entered its second phase.

P A R T I V

**"UNITY-STRUGGLE-UNITY"**

**3. The Gherao Movement—2**

FROM CALCUTTA, Subodh Banerjee went to Rourkela to see what inspiration he could give to the workers of the steel plant there. Addressing the open session of the United Trade Union Congress on the 19th June in the steel city he boasted of what he had done to "safeguard the interest of the working class people." He said: "I have allowed a duel between the employees and employers in West Bengal and the police has been taken out of the picture so that the strength of each other may be known." There is one quality in common between the 'revolutionaries' in the countryside and in the cities and that is their bravery in the cause. In Naxalbari the Kisan Sabha 'revolutionaries' forcibly placed women and children in the front rows to face possible police action. Their counterparts in the cities showed similar courage. Hundreds of them pounced on eleven officers of a cigarette factory near Calcutta and laid about them with iron rods breaking ribs and fracturing shoulder-joints. Half a dozen officers of a leading firm were slapped, insulted, humiliated and made to stand in the hot sun for hours within sight of the State Government's headquarters, Writer's Buildings. Failure of one factory manager to concede to extortionate demands on the spot resulted in the 'revolutionary' workers placing large chunks of ice on his body. They next drove needles into the nails of his fingers and denied him food, drink, and medical attention. Off Park Street, one of Calcutta's best known areas, a factory manager and a few other officers were made to stand in the sun for seven hours without so much as a sip of water and were denied toilet facilities. The lady receptionist of the same company was threatened with dire consequences if she attempted to use the telephone and she fainted. The Manager and Assistant Manager of a jute mill were also kept standing in

## BENGAL: THE COMMUNIST CHALLENGE

the blazing sun for twelve hours. They had fits of nausea and fainted. But the proletariat were unmoved.

Of such stern stuff is revolution made that when the victims recovered they were made to stand again but were not allowed any water nor was a doctor allowed to see them. Gheraos lasted for several days. The longest on record was for seven days. Food and drink were often denied and telephone connections cut off. When the confinement took place in individual rooms the victims were also denied access to toilet facilities.

That the gherao movement had little to do with genuine grievances is beyond question. Gheraos were staged for the following reasons for instance:

- (1) to demand reinstatement of workers who had accepted the management's scheme of voluntary retirement and who had already collected the additional compensation.
- (2) to oppose reorganisation of work. Had not the Tasks on the Trade Union Front defined 'job evaluation' as an instrument for intensification of work, and 'productivity councils' as a means to secure more surplus from the workers for the benefit of the exploiting class?
- (3) to demand recruitment of more staff where existing staff was surplus to requirements.
- (4) to demand payment of wages for unauthorised absence and absence in defiance of specific orders.
- (5) to demand discontinuance of enquiry proceedings against workmen charge-sheeted for theft.
- (6) where industrial units do not make a profit in any year the Bonus Act in its wisdom lays down that a minimum bonus of 4 per cent of the annual wages shall be paid. The Labour Minister expressed public disapproval and 'suggested' to associations of employers that the figure should be 8 per cent. Even this was not accepted and gheraos were staged to demand 18 per cent and 20 per cent.
- (7) to demand additional allowance for working in the heat.
- (8) to demand reinstatement of workers dismissed for misconduct after the usual enquiry 2½ years ago.
- (9) to demand promotion of 49 workers.
- (10) to demand recognition of unrecognised Communist and Socialist Unity Centre unions.

## THE GHERAO MOVEMENT—2

- (11) to demand removal of a head clerk and other loyal employees.
- (12) to demand restoration of incentive bonus for an electrician found sleeping on duty.
- (13) to demand rations for workers residing outside statutory rationing areas as though they were within those areas.
- (14) to demand withdrawal of charge-sheets against workers suspected of having set fire to a factory canteen.

Subodh Banerjee's Labour Department in the West Bengal Government maintains certain statistics of gheraos. The full figures are not published because this would be inconvenient for the 'revolution.' The total number of gheraos staged up to the end of September 1967 was 1016. A reference is invited to the Appendix where a detailed analysis of the figures is given. It will be noted that the number of gheraos staged against violation of laws by employers, for example, violation of the Provident Fund Act and the Payment of Bonus Act, was only 52. It is also urged by the communists that gheraos took place to force employers to implement tribunal awards and agreements and the recommendations of wage boards. The total number of gheraos staged in furtherance of all three causes was only 54. The majority of gheraos took place demanding increases in wages, employment of more workers and recognition of communist unions. These and similar reasons accounted for no less than 664 gheraos out of the total of 1016. It can hardly be suggested that the object of the gherao movement was to secure benefits for workers but the object certainly was to strengthen the communist movement. In the process several industrial units found it impossible to function and the difficult conditions resulting from the country-wide recession became much more difficult. While the communists were training workers in the acquisition of the "higher socialist consciousness," 225 units had to lay-off 43,947 workers, 145 units had to retrench 3,171 workers and as many as 68 units had to close down permanently rendering a further 4,314 workers unemployed. The gherao movement is estimated to have caused a flight of capital from the State to the extent of Rs 250 crores (Rs 2500 million.)

Every opportunity was taken to preach violence and revolution. Subodh Banerjee's May-day speech which was to have been

delivered over All-India Radio is a good example. The English translation is given in the Appendix. The Minister made some important points. First a revolution was needed and victory through an election was not a revolution. Secondly, within the limitations imposed by the Constitution nothing much could be achieved but the police had been rendered ineffective and the workers were urged to take advantage of this. Thirdly the administration was criticised and the judiciary considered not impartial. For this gross contempt of court he was summoned before the bar of the High Court and had to tender an unqualified apology and agreed to pay Rs 5 to a charitable institution. This less than revolutionary action on his part was criticised by the United Front Committee who demanded a full explanation of his conduct. The contempt arose out of the publication of his speech in a Bengali journal. He had earlier refused to broadcast it because the Station Director of All-India Radio pointed out that preaching revolution was not permitted.

P A R T   I V

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**"UNITY — STRUGGLE — UNITY"**

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**4. The Labour Minister's Defence**

SPEAKING IN THE Legislative Assembly on 12th August the Labour Minister frankly pinpointed the obstacles standing in the way of his chosen path of violent revolution. He put it this way. "The United Front Government have to work under two limitations—the basic limitation of the capitalist society, and the second is the constitutional limitation. For these two basic limitations a fundamental change in the life of the people cannot be brought. I have openly confessed that and am confessing right now." Answering the charge that the gherao movement was akin to the Red Guard operations in Communist China he said that although he "may be a supporter of Red Guard operations," Congress and INTUC (Indian National Trade Union Congress) Unions are not, but they had also resorted to ghraos. That this counter-charge is a fact cannot be denied. In the tea gardens of North Bengal in particular, Congress-led unions have resorted to some bad ghraos. They said they did this to head off the communist influence on their unions! The elementary truth that two wrongs do not make a right is apparently lost on both sides.

The Minister admitted that there had been "some excesses." He agreed that these excesses should be condemned but only because, (a) "they were impediments in raising a spate of mass movements" and (b) because "they provide an opportunity for conducting propaganda against (these) movements and arm the bureaucracy with an excuse to resort to repression." He did not agree that ghraos should be suppressed because they were illegal. "You know" said the Labour Minister "keeping a revolver without a licence is illegal, so also is killing of people. But no one surely condemned those Bengali revolutionaries who took up the

revolver to drive away the Englishman and to bring independence." How dangerous is argument by analogy!

To the suggestion that the 'gherao' was driving away businessmen and technicians from West Bengal Subodh Banerjee's answer was two-fold. As for driving away businessmen and industrialists he first pleaded ignorance. "I do not know of any industry which has migrated to some other place from West Bengal because of gheraos," he said. He was also contemptuous. "It has been asked if the goose that laid the golden eggs should be killed. First it has to be proved that the goose really lays golden eggs. We have found," added the Minister "that if the goose lays golden eggs, the employers store the eggs in their safes, forcing the impurities coming out with the eggs on the labourers. What is the worth of this golden egg," he asked, no doubt pleased with his exhibition of poor taste.

As regards technicians, the Minister's reaction was irresponsible defiance and unconcern. "Some have said that our labour policy will compel technicians to leave. All this is incorrect because you know the technicians have to earn by their labour and they will work wherever there are industries. They cannot subsist on grass growing in the field and have therefore to stay in industrially developed areas." Either Mr Banerjee is unaware that there are other industrially developed areas in the more stable parts of the country which need technicians, or he must be labouring under the error that sometimes afflicts politicians in this part of the country—the error of mistaking West Bengal for the whole of India.

### *The 'Moral' Justification*

Not satisfied with this, Subodh Banerjee goes on to propound an involved and highly moral explanation for gheraos. "It is foolishness to sit in judgement on gheraos with the outlook of a briefless mofussil lawyer," says Mr Banerjee. "It has to be measured with the yardstick of social justice, and tested on the touchstone of justice and morality." What justice, one might ask, required the 'proletariat' to assault the managerial staff of a cigarette factory so severely that they were hospitalised for long periods, when there was no genuine industrial dispute with the management. What perverted sense of morality required

three members of the management of an industrial unit to be forced to stand in the hot summer sun and when they fainted and collapsed, for their bodies to be dragged by their feet and so positioned that there should be no danger of a passing cloud or other shade giving them even temporary relief! Which touchstone was used to justify the imprisonment of yet another member of the management in his room with all electricity connections switched off except for the four, thousand watt floodlights, focused on him! Mr Banerjee may explain these away as excesses that endanger his revolution. But what new high moral code would he invoke to justify his indifferent behaviour towards a group of ladies who came to him urging simply that some food and water should be allowed to be sent to their husbands gheraoed in an engineering unit in Kidderpore in Calcutta, and who had been without both for more than twenty four hours!

And now finally a touch of histrionics. Being a Marxist one must expect Subodh Banerjee's formulation to be in clear class terms with the words "morality", "legitimate struggle" and "exploited" being assigned meanings found only in communist verbiage. Here it is: "I will consider myself impure to oil the feet of the exploiting class or to be its agent. If on the other hand I support morality or all the legitimate struggles of the exploited people, I will hold my head high." One can almost hear Chairman Mao applauding across the Himalayas!

### *The Reactions*

Subodh Banerjee was not alone. He could justly claim that he was carrying out the policy of the entire United Front Government. The notorious 'Gherao Circulars' of 27th March and 12th June were not issued by him. They were issued by the Home Department of the Government following decisions taken in the Cabinet. Other ministers of the State Government lent constant and close support. The honourable exceptions were Food Minister P. C. Ghosh and the P.S.P. Minister Nishith Nath Kundu, who gave public expression to their disapproval. The Bangla Congress attitude was equivocal. The Chief Minister known to be unhappy over some aspects of the movement refrained from taking a clear stand. His colleague Sushil Kumar Dhara, Minister for Commerce and Industry and General Secretary of the Bangla

Congress did say in Calcutta on 14th September that recent activities of trade unions had "almost completely ignored the interests of industry as such." In case he had gone too far he quickly added that he wanted gheraos in State undertakings to stop. It is difficult to understand the reason for such selective logic.

The support from communists was loud and clear. B. T. Ranadive, the C.P.I.(M)'s leading theoretician described the gherao movement as a "perfectly legitimate weapon—a trade union weapon of protest and action," "a weapon of disciplined protest." He could not understand the protests against gheraos as they were "most peaceful and disciplined demonstrations." For the C.P.I., their General Secretary S. A. Dange, described gheraos as "a legitimate weapon of workers in their fight against capitalists." He even suggested that employers had "created a situation in which workers are forced to launch struggles for the defence of their interests." Both Communist Parties worked closely together in their trade union front the A.I.T.U.C. (All India Trade Union Congress) to avoid criticism of the gherao movement in the Standing Labour Committee (representing Associations of employers and employees and which meets periodically under the chairmanship of the Labour Minister of the Central Government). When the Committee passed a resolution at its meeting in Delhi on 10th May "disapproving coercive and intimidating tactics including gheraos for resolving industrial disputes", the A.I.T.U.C. representatives walked out in protest. Except for communists and fellow-travellers no one in the trade union movement supported the gherao. The last word was spoken by Mr Ramanujam, General Secretary of the I.N.T.U.C. who characterised the gherao as an "Indian edition of the Chinese Red Guard movement."

P A R T I V

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**"UNITY-STRUGGLE-UNITY"**

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**5. After Unity—Struggle**

THE OBJECTIVE of the gherao movement was not simply to intimidate managers and employers although this was done successfully enough. "It is clear beyond doubt" the Resolution on Tasks on the Trade Union Front had stated "that any trade union activity, whatever may be its pretensions to be revolutionary, is purely reformist activity if it does not lead to rapid expansion of the Party among the workers." All Party cadres are urged that they "must see that the Party develops rapidly." The obstacles in the way of this rapid development must therefore be removed. These obstacles were the trade unions of other persuasions and under the shadow of the gherao movement the communists set out systematically to eliminate the influence of the non-communist trade union leaders. Seven other "revolutionary" and "socialist" parties in the United Front actively assisted in the conspiracy, while the P.S.P., the S.S.P., and the Bangla Congress stood by helplessly, benumbed into inaction by the speed and ruthlessness of the communist advance.

The tactics of united front from below were deployed to such good effect that the local leadership of unions under the influence of the Congress and the two socialist parties the P.S.P., and the S.S.P., found themselves supporting individual gheraos. Their rank and file had been persuaded by intensive communist propaganda that working class unity required common action. The statement of Kali Mukherjee a leader of the Congress influenced I.N.T.U.C. is revealing. In an interview with a correspondent of the *Statesman* in New Delhi on October 1, he frankly said that in his opinion, about 80 per cent of the labour disputes in West Bengal stemmed from flimsy causes and took a bad turn due to gheraos. He went on to make a significant admis-

sion. Although his own organisation—the Indian National Trade Union Congress—was opposed to gheraos, “often it had been forced under pressure from the C.P.I.(M) to resort to that mode of action.”

*Political Murders*

Where these tactics did not succeed violence and physical assault were tried. Trade union leaders whose influence could not be eliminated otherwise, were ruthlessly murdered. Among the early victims was B. P. Jha in the coalfield area of Raniganj, near Asansol. Jha belonged to the Samyukta Socialist Party and was the leader of the Colliery Mazdoor Congress an affiliate of the Hind Mazdoor Sabha an All-India organisation. The S.S.P. was the dominant political party in this area before the elections, and Jha’s influence was paramount.

Jha had worked closely with both communist parties during the elections, but he was not needed thereafter and in fact became a serious obstacle to the C.P.I.(M)’s bid to displace unions of non-communist persuasions. He was ambushed, attacked with batons and spears and brutally done to death. The post-mortem examination revealed twenty separate wounds. In spite of the uproar that followed the police made no arrests for over two weeks. Jha’s chief, the late Dr Ram Manohar Lohia, personally investigated the brutal murder and also visited Calcutta. Speaking on the basis of “official records” of the West Bengal Government, Dr Lohia disclosed that the investigating officer had clearly stated that all the persons mentioned in the First Information Report to the police should be arrested. He alleged that permission for this was first given but subsequently withdrawn by instructions over the telephone from Calcutta. This allegation has not been refuted by anyone in authority.

The complicity of the C.P.I.(M) was so obvious that the party journal “People’s Democracy” of June 18, went out of its way to publish a version of Jha’s death. This version bears all the marks of the great regard the communists have for truth. Jha was made out to be a goonda who helped mine-owners to break strikes. On the fateful day, June 4, said the paper, Jha was leading a group of “more than five hundred goondas armed with spears and bombs” who were attacking workers and women and children in

their quarters. The cries of the wounded women and children brought assistance from neighbouring workers colonies at the sight of which the "goondas got panicky and took to their heels," and in their confusion "they threw their spears and bombs recklessly and indiscriminately, injuring many more." The suggestion was that either Jha was killed during the reckless shedding of spears by his own supporters or by the workers defending themselves against his goondas. Either way the C.P.I. (M) was innocent! With only the Chinese Communists as the example to follow, it is not surprising that the C.P.I.(M) did not do a better job of their propaganda.

B. P. Jha was not the only victim, there were many others. The total number of murders reported between March and October, where the motive was said to be political, was no less than 147. This figure includes 18 murderers where the victims were identified as active trade union leaders. Fourteen of these were Congressmen, two P.S.P., and two S.S.P. members.

#### *The C.P.I.(M)'s Progress*

Before the elections of February 1967, the membership of the C.P.I.(M) in West Bengal was reported to be about 18,000. The emphasis on strengthening the Party by every possible means, fair or foul, is reflected in the membership figures. Meeting in Calcutta on July 31, the State Committee of the Party noted with satisfaction that "75 per cent of the target of recruiting 7,000 new members by the month of September, 1967, had already been achieved." The Party later expected to be 27,000 strong by the end of September, and it is reported that this target has been surpassed. Total membership figures are not published by the Party but the figures given here have been obtained from the Party's own sources. When it is remembered that at the time of the split in the Communist Party in 1964 the C.P.I.(M)'s strength in the State was estimated at 7,000 only, it points to truly phenomenal progress.

#### *Rivalry in the Bengal Provincial Trade Union Congress*

The Bengal unit of the A.I.T.U.C., the Bengal Provincial Trade Union Congress is led by the two Communist parties and

here the C.P.I.(M) has been gaining steadily at the expense of its revisionist ally. The B.P.T.U.C. claims that since the formation of the United Front Government in March 1967 the number of new unions sponsored by it has risen by at least a hundred and the total membership of unions affiliated to it has risen by 100 per cent. What percentage of the unions affiliated to the B.P.T.U.C. is controlled by each communist party is not made known but informed sources estimate that the C.P.I.(M) now control 75 per cent and the C.P.I. 25 per cent.

The B.P.T.U.C. held its conference in Calcutta from 22nd to 24th September in the favourable climate of a communist dominated government, after a lapse of more than six years. In the outgoing State Council of the B.P.T.U.C., the C.P.I.(M) had only a slight edge over the C.P.I., but with over one hundred new unions affiliated in the last few months and most of them run by the C.P.I.(M) the balance was tilted decisively against the C.P.I. The leaders of the C.P.I. were apprehensive and asked for written assurances from the C.P.I.(M) on two points—"the procedure for election of new office bearers," a euphemism for assurances of fair representation; and "the avoidance of personal vilification of leaders." The C.P.I.(M) were willing to give verbal assurances and as these were not satisfactory the opening session of the much-awaited conference took place without the C.P.I. delegates who boycotted it and without the Chairman of the session Dr Ranen Sen (C.P.I.).

The C.P.I. had good reason to distrust verbal assurances. While Niren Ghosh C.P.I.(M) was moving a resolution at the conference urging that politics should be kept out of the trade union movement and the C.P.I. should maintain working class unity, the C.P.I. (M) organ Deshahitashi carried abusive attacks on the A.I.T.U.C. General Secretary, S. A. Dange and openly incited C.P.I. (M) followers to act to prevent the participation of the C.P.I. in the conference.

Another imponderable in the situation was the possible attitude of the C.P.I.(M)'s Naxalbari Group who threatened to combine at the conference with the C.P.I. to discredit the C.P.I. (M) official leadership. Neither Communist party therefore really wanted a showdown and with great fanfare the C.P.I. joined the conference the next day, following the private agreement reached on the list of new office bearers. The President

continues to be Dr Ranen Sen (C.P.I.) and the crucial General Secretaryship is retained by Manoranjan Roy C.P.I. (M). But the new Treasurer and four of the seven Secretaries were chosen from the ranks of the C.P.I.(M). The C.P.I. had to be satisfied with one Secretary and three Vice-Presidents. Control of the B.P.T.U.C. now passed decisively to the C.P.I. (M).

### *Other Unions*

As for other trade union organisations the I.N.T.U.C. which was the largest in the State before the elections now dropped to second place. It could claim only five new unions affiliated to it during the United Front Government's regime. The United Trade Union Congress dominated by the Revolutionary Socialist Party claimed thirty-two new unions since March 1967 but then the R.S.P. is a close ally of the C.P.I.(M). The P.S.P. and S.S.P. led unions lost ground especially in the coal mining areas. Among the plantation labour in the tea gardens of North Bengal I.N.T.U.C., H.M.S., Gorkha League and U.T.U.C. unions still hold sway, but the C.P.I.(M) is breathing down their necks and the pressure is kept up relentlessly.

### *The Big Lie*

The non-communist unions under threat of elimination by the C.P.I.(M) in its present rogue elephant mood must make a stand now before it is too late. And the question of whether the United Front Government continues in office is not really relevant. That the gheraos and other acts of terror and intimidation have for the time being extracted concessions from employers is undeniable. For instance, the Indian Engineering Association, whose member industries were targets of some of the most vicious gheraos admitted as much when they declared in their statement issued on October 20, that in future, no concessions would be made or charge-sheets withdrawn under "criminal duress."

But it has not yet been explained to workers that these tactics were employed for a political purpose and their true interests have never been considered. Indeed if the communists really had their way the workers would be worse off than they are now.

It was left to Jai Prakash Narayan with his great prestige to

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make this point crystal clear. Speaking in Calcutta on September 21, he declared that "the United Front Government was more inclined to encourage stoppage of work or low productivity rather than the other way round. This I consider a suicidal attitude. I am quite sure that if, for instance the Left Communists came to unchallenged power and established their dictatorship, the first thing they would demand of the workers would be more work for less wages. It has been so in every country where the communists came to power."

P A R T V

***GUARDIANS OF THE PUBLIC CONSCIENCE***

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**I. A Tribute**

THE LAW ENFORCEMENT agencies of the administration were successfully demoralised at their higher levels while at the lower level of the police constable and the junior administrator the systematic campaign of many years of communist infiltration and encouragement of indiscipline received a tremendous boost. Bad examples are easier to follow than good ones and the lower rungs of the administration soon learnt to bow to the prevailing wind. They consulted the local communist parties before taking action where their duty clearly lay in being strictly non-political, and often bent their actions to please the communists in their areas, if not out of conviction then certainly out of a fear of the consequences of their resistance. That the Congress Party had indulged in the same kind of thing is undeniable; the communists simply improved on the Congress record, substituted violence for the persuasive power of money and did the job much more thoroughly and with complete dedication.

One bright light continued to shine keeping alive the torch of liberty, honour and conscience. The judiciary, heirs to a great tradition, never faltered. In the cases that came to their notice, they corrected the wrongs and the abuses with all the courage and independence which have earned for them throughout history, the respect and even regard of the common citizen. In the words of Justice Douglas, "The judiciary has no army or police force to execute its mandates or compel obedience to its decrees. It has no control over the purse strings of government. . . . The strength of the judiciary is in the command it has over the hearts and minds of men. . . . The Court that raises its head against

the mob may be temporarily unpopular; but it soon wins the confidence of the nation. The Court that fails to stand before the mob is not worthy of the great tradition."

### *Two Typical Cases*

In a case arising out of unlawful confinement and other criminal acts on the part of workmen indulging in a gherao, Mr Justice A. K. Das at the Calcutta High Court was constrained to pass severe strictures against the Sub-divisional Magistrate Alipore, for his "cavalier spirit" in passing orders. The magistrate had refused the prayer for relief after the police had also declined to intervene. Mr Justice Das observed: "The order betrays a lack of understanding of the seriousness of the allegations made affecting personal liberty. . . ." He added: "I wonder if the learned magistrate was aiding and abetting the commission of offences likely to lead to lawlessness."

A typical example of the other dangerous trend, of the readiness with which the police took orders from the Communist Party is provided by another case that came before Mr Justice Das. It arose over a land dispute. A party made a complaint to the officer-in-charge of the Hasnabad Police Station in 24-Parganas District on June 19, 1967, with a forwarding memo from the local secretary of the Communist Party of India where the secretary said that he was forwarding the petition and added: "I hope you will be kind enough to defend the poor *bargadar* in any way as required." The officer-in-charge of the police station duly recommended the promulgation of an order under Section 144 (prohibition of assembly) and Section 107 (execution of bonds by the landlords) of the Criminal Procedure Code, on the grounds that a breach of the peace was apprehended. An obliging magistrate not only issued both orders but also gave an ex parte order for the arrest of the owners of the land. The magistrate later rescinded the proceedings under Section 144 on receipt of another application from the *bargadar*.

Commenting on the action of the officer-in-charge of the police station Mr Justice Das said: "I wonder if the thana officer on receipt of the complaint forwarded it to the local office of the C.P.I. before taking action. For that alone can explain why the

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two papers purported to be sent together bear different dates. I am not prepared to think that the police administration has gone so low as to get orders from the political party, but it calls for scrutiny from those responsible for maintenance of law and order and police administration."

As for the first crop of orders issued by the magistrate, Mr Justice Das held that they were passed "without scrutiny and without apparently being satisfied that public peace could not be maintained without their immediate arrest." Commenting on the sudden withdrawal of the proceedings, the Judge observed: "Hurriedly the learned magistrate passed an order rescinding the proceedings under Section 144 Cr. P.C." He continued: "The learned magistrate's handling of the proceedings under Section 107 and the order under Section 144 are still more curious and supports the misgivings that the learned magistrate failed to apply his judicial discretion but danced to the tune of the first party." Uttering a timely warning against political interference with the course of justice, Mr Justice Das observed: "Political parties or their office-bearers may be important in their own spheres but any interference by them either directly or even remotely in the administration of justice, strikes at the root of judicial independence and the subordinate judiciary must be alert against any encroachment on that independence, or else, may lose its cherished treasure, the confidence of the people."

#### *The Special Bench Judgement*

When Justice Douglas declared that the Court that raised its head against the mob would soon win the confidence of the nation he could not have foreseen that the Calcutta High Court would have such an opportunity to do just that. The menace of the gherao and the inaction of the police in the face of the two notorious circulars issued by the Government were brought to the notice of the High Court in a number of cases of unlawful confinement, restraint, criminal trespass and other criminal acts. Chief Justice Sinha constituted a Special Bench with himself and four of his companion Judges to hear the applications. The lawlessness encouraged by Ministers of the Government had reached such a stage that for the first time in the High Court's experience a mob of almost 200 people dared to invade the High Court building

carrying placards, posters, and flags and shouted objectionable slogans against the judiciary. The Special Bench could not continue with its work. The Chief Justice had to ring up the Chief Minister and tell him that if this sort of thing continued the courts would be closed *sine die*. The Chief Minister did act promptly but it became necessary to deploy a large police force and orders under Section 144 had to be issued to protect the approaches to the High Court buildings. The Chief Justice recorded the fact that this sort of thing had never happened in the High Court's hundred years of history nor did he think it had happened anywhere else in India. But, as he commented in his judgement, "this is the inevitable result of fostering violence and there is little to marvel in it."

The historic judgement couched in memorable language was delivered by the Chief Justice on September 29, 1967. The judgement defined a 'gherao' and examined when it was unlawful. It considered the 'gherao' circulars issued by the government and pronounced on their legality and the competence of the issuing authority. Comment was also made upon the earlier circular of 7th February 1956, issued by a Congress Government. It examined the rights of trade unions under the law and the remedies open to them for the redress of grievances. It considered at length the duties of the police in dealing with cognizable offences and preventing breaches of the peace. Allowing that it was not unnatural for subordinate officials to carry out the mandates of their superiors it sternly warned the police that they must in future act according to the law. Ministers swearing an oath to uphold the Constitution had declared war upon it. The judgement firmly upheld the Constitution and demanded respect for the rule of law upon which it was founded.

Answering the request of the Advocate-General that if the circulars must be struck down, the Court should hold that Government had issued them with the best of intentions thinking them to be for public benefit, the Judges were only prepared to concede that "mala fides on their part have not been established." They went on to declare: "It is however different so far as the Labour Minister is concerned. Whether he was acting in ignorance of the law it is difficult to say, because rightly or wrongly the law presumes that everyone is acquainted with the law. But if it is a question of whether, what he did was done accidentally or

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deliberately, we are constrained to hold that from the material placed before us there can be no doubt whatsoever that whatever was done by him was done deliberately. I do not think that it is at all difficult in this case to pierce the veil and get at the truth."

There were further strictures on the Labour Minister, Subodh Banerjee.

"There can be little doubt that encouragement from high quarters has resulted in a small group of militant trade unionists creating for themselves, an enviable notoriety which they would otherwise not have achieved. Emboldened by such encouragement, they have become successful in rendering the forces of law and order ineffective, so that they could, with impunity, use violent methods against the management and terrorize them into submission. Thus a small group of determined and violent men are holding the whole industrial world to ransom. There is no doubt in my mind that the Labour Minister has deliberately assisted in the spread of this evil in the industrial world, and the two impugned circulars are in aid of it."

The learned Chief Justice quoted Justice Douglas in his Tagore Law Lectures. "The judiciary is in a high sense the guardian of the conscience of the people as well as of the law of the land. . ." "It is this public conscience," concluded the Chief Justice "that we have proceeded to exercise in this judgement of ours, hoping that it will contribute to the restoration of peace in West Bengal. In the gathering darkness I hope its voice shall be heard and obeyed."

The judgement runs into eighty-seven type written pages and makes rewarding reading. Copious extracts are given in the Appendix with sub-headings to make reference easier for the general reader. Generations of Indians, yet unborn, living as free men in happier and more peaceful times, will turn to this judgement for inspiration, and record their respectful tribute to the guardians of the public conscience for having stood their ground so nobly in defence of liberty and the supremacy of the rule of law.

The communists ordered another tactical retreat. But they remained defiant and unrepentant. The I.N.T.U.C. leader, Kali Mukherjee said in New Delhi on the 2nd October, that the Labour Minister, Subodh Banerjee should resign if he had any shred of self-respect. Mr Banerjee retired instead to a hospital,

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reportedly for treatment of leukaemia in its early stages. S. A. Dange, the C.P.I. General Secretary, when his attention was drawn to the judgement, retorted angrily,\* "High Courts would have a taste of gheraos." Hare Krishna Konar, C.P.I.(M) summed up the attitude of all communists when he quoted Lenin; "In a class society, justice is also class justice."

\* At the 27th Session of the Standing Labour Committee in New Delhi.

P A R T V I

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***DARKNESS AND THE LIGHT***

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## 1. The Communist Threat

THE FORMATION OF the Naxalbari group of the C.P.I. (M) was countered by the leadership of the Party with a move to head off the extremists. Reference has been made earlier to the Calicut session of the C.P.I.(M) Central Committee in early November which appeared to shift the emphasis of the Party's programme in the direction demanded by the Naxalbari group. The Party's General Secretary, P. Sundarayya had said to the press on November 1, that the prominence given by the Party to parliamentary procedures during the last few years was to be reversed. The Party did not want a showdown with the extremist group and at the B.P.T.U.C. conference also the leadership went out of its way to retain the extremists within the fold.

At the same time the Naxalbari group have not been all that eager to prove their precise strength. Loud and bold revolutionary noises continue to be made but their objective appears to be limited to pushing the official leadership further, faster and more openly towards abandoning parliamentary procedures altogether and taking to undiluted revolution. That they are succeeding in these efforts is reasonably clear and in the process the communist movement as a whole is being raised to new levels of violence and lawlessness. Examples of this kind of pressure are first the mammoth public meeting in Calcutta on November 11, organized by the extremist group under the banner of the Naxalbari Krishak Sangram Sahayak Samiti where Charu Mazumdar the brain behind the Naxalbari agitation presented himself and openly preached immediate armed revolution. Apart from portraits of Lenin and Jangal Santhal the Naxalbari rebel, huge portraits of Mao-Tse-Tung were displayed, and the dias was adorned with slogans like "Naxalbari Lal Salaam!" and "Mao-Tse-Tung Lal

Salaam!" This meeting coincided with a week long conference in Calcutta at the end of which, on November 16, a tentative decision to form a new Communist Party strictly on Maoist lines was announced.

The task of the proposed new party would be to achieve "a people's democratic revolution through building militant rural bases and extending them to encircle the cities." It was proposed to "raise a people's liberation army by forging peasant guerrilla units" throughout the countryside. However the meeting was careful to point out that the new party could not be formed immediately.

Whether the Naxalbari group will eventually find it necessary to form a new party and if so whether the C.P.I.(M) and the C.P.I. will come closer together are questions that are not easy to answer on the basis of evidence so far available. In a sense preoccupation with these thoughts can become a dangerous red herring across the trail because the overall threat posed by the communist movement then tends to be minimised. It also gives rise to the dangerous illusion that there are good communists and bad ones and that it is only a small extreme section of communists who are the real danger to the country's vital interests.

We have seen that in spite of the most polemical exchanges between the C.P.I. and the C.P.I.(M) for instance, the two communist parties collaborate and combine very effectively in the Kisan Sabha activities and the resultant chaos and confusion in the countryside. They quarrel a little more in the Student Federation but this is mainly when elections to the Federation are due. On the trade union front the B.P.T.U.C. conference in Calcutta showed that while one communist party boycotted the opening session this was a tactical move to gain proper representation on the new executive being elected and was in no sense a difference over policy or ultimate objectives. The two parties were close allies in organising the gherao atrocities. It must not also be forgotten that the R.S.S.\* was formed by the two communist parties in 1964 with the primary aim of organising a Bharat Bandh (All-India general strike).

A booklet recently published by the C.P.I. containing articles

\* Rashtriya Sangram Samity. The Convener of the West Bengal unit is Manoranjan Roy, C.P.I.(M) who is also Secretary of the B.P.T.U.C.

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by Bhupesh Gupta, M.P., and others answering the C.P.I.(M)'s charges of revisionism, ends with a significant plea to bury the controversy, a timely suggestion as the C.P.I.(M) are at the receiving end of similar charges from the Naxalbari group, and to join in carrying out the overall communist aims.

The C.P.I.(M) address the same appeals for unity to their Naxalbari group. This argument can be carried on both ways indefinitely but one conclusion can safely be drawn from the available evidence. The differences between the C.P.I., the C.P.I.(M) and the Naxalbari group are differences over procedures not principles, tactics not objectives, emphasis not fundamentals. It would be a great mistake to overstress those differences a mistake that we could make only at our peril.

P A R T V I

*DARKNESS AND THE LIGHT*

2. The October Crisis

THE APPETITE OF the communists for power grew by what it fed on and their ambitions became more and more obvious. Within the government the communist ministers and their allies attempted to force the pace. They isolated P. C. Ghosh an Independent who held charge of the Food portfolio. They sabotaged his plans and publicly criticised him. Even the docile and compliant Ajoy Mukherjee began to get restive. He tried simple remedies. He thought of evolving a code of conduct for his ministers the chief object of which was to stop them from criticizing one another as though this was the Government's primary weakness. The super-cabinet, the United Front Committee laboured for sixteen hours and produced a mouse. The Code announced with suitable publicity provided in essence that a Minister who disagreed with the Cabinet decision on any subject should in the first instance ask the Chief Minister for a reconsideration of the decision. If he got nowhere at the second attempt an appeal would lie to the United Front Committee. This added a new dimension to the theories of popular government which historians of the future will no doubt evaluate and set in perspective. The Code concluded with admonitions that "all must defend the policies of the Government and the decisions of the Cabinet." The outcome could hardly have been otherwise after the statement of the Deputy Chief Minister, Jyoti Basu, C.P.I.(M) that he saw "nothing wrong in Ministers criticising Cabinet decisions."

The Chief Minister was constantly by-passed. On the important issue of taking over the management of the Calcutta Tramways Company the Chief Minister was left to learn of his Government's decision from the newspapers when he was on a visit to Delhi. He was insulted by his own State Government's staff on several

#### THE OCTOBER CRISIS

occasions. He felt vaguely that all was not right with his administration but was powerless to intervene decisively even in matters like the growing lawlessness in the State when law and order was his own direct charge. The limits had been reached and in despair he decided to resign.

Here he faced a dilemma. The balance of forces in the Assembly was such that in forming an alternative government he must either take the Congress Party into his administration or rely on them to support a minority government from without. Either way confidence in the Congress Party's word was essential, but Ajoy Mukherjee felt that he could not rely on their word as long as Atulya Ghosh his arch-foe had a say in affairs. In the meantime the Congress Party since their defeat in the February elections were in surprisingly good heart. In contrast to the record of the Party in other states not one Congressman crossed the floor to join the United Front, on the contrary five M.L.A.s (3 Bangla Congress, 1 Jana Sangh and 1 Independent) crossed over to join them. How to get rid of Atulya Ghosh's grip on the State Congress now occupied the minds of Ajoy Mukherjee and some Congressmen impatient to get back into office. Into this situation walked the Calamity Jane of the Congress Party, Gulzarilal Nanda, visiting Calcutta to discuss the future of the State organisation on behalf of the Congress Working Committee.

A plot, beautiful in its simplicity, was hatched. The plotters must have had in mind Atulya Ghosh's public welcome to Ajoy Mukherjee on the 23rd July, to suggest any alternative to avoid violent revolution. The bargain struck was that the State Congress Committee would be replaced by an ad-hoc body to eliminate the pro-Atulya Ghosh men and in return Ajoy Mukherjee would resign on Gandhi's birthday October 2. Thereafter the Congress and Ajoy Mukherjee would live happily ever after. The plotters reckoned without the superb political skill of Atulya Ghosh. The Congress President, whose stamp of approval was necessary to carry through the plan and who alone could constitute the ad-hoc committee, hesitated long enough to have put Ajoy Mukherjee on his guard. It was obvious to any competent observer that days before the target date of October 2, the ad-hoc committee plan had run into serious trouble with Atulya Ghosh's opposition and the odds were against its going through. All that Ajoy Mukherjee had to do was to bide his

time, await the final decision from the Congress President and decide his line of action in the light of that decision.

Ajoy Mukherjee decided to hold fast to his target date. His advisers had correctly anticipated that the resignation of the Chief Minister and consequently of the entire Cabinet would be the signal for the communists to take to the streets and more than twenty-four hours before the appointed time additional police reinforcements and Army units took up positions to reach any trouble spot in the State in a matter of hours. Forewarned so well, the communists moved into action to head off the threat. Biswanath Mukherjee (C.P.I.) younger brother of Ajoy Mukherjee and a Cabinet Minister led the mission. Accompanied by representatives of the Peoples' United Left Front Parties who had joined forces in the elections with Ajoy Mukherjee's Bangla Congress he set out to see his brother and skilfully played upon the latter's suspicions of the Congress leadership in the State, suspicions strengthened by the delay in the announcement of the much talked of ad-hoc committee plan. A promise was extracted that he would not resign that day but would think it over. That was the beginning of the retreat. October 2 came and passed and the Government survived. Ajoy Mukherjee still thought of resigning after talking it over with the P.U.L.F. parties as he had promised. He is reported to have told them that they would have to look for another Chief Minister, and is supposed to have added, "I can't allow West Bengal to become another Vietnam." It is also reported that at this meeting on October 3, Ajoy Mukherjee brought a series of allegations against a section of the C.P.I.(M) charging it with having an unholy liaison with China and creating chaos through violence for suiting its own ends. At one stage he reportedly refused to have any truck with the C.P.I. (M). If he is correctly reported it does him credit and marks the beginning of an awareness of the common danger.

To trace the ad-hoc committee plan to its conclusion, the Congress President was in no position to stand up to Atulya Ghosh. At long last on October 12, the plan was announced but it proved to be still-born. Only the State Executive was replaced with seven members, of whom four could be relied upon to carry out the wishes of Atulya Ghosh without question, and three others who might demur for a few days before falling in with those

#### THE OCTOBER CRISIS

wishes. To make assurance doubly sure the Committee headed by ex-Chief Minister P. C. Sen as Convener had its wings clipped and its mouth gagged. It was to last only until early December by which time the organisational elections were to be completed.

It was to be nominally in charge of those elections, but had no power to alter whatever had been done already. It could not change the list of voters nor interfere with the appointment of district returning officers by the Returning Officer for the State who had already been appointed. Only Gulzarilal Nanda could see any virtue in this new arrangement which was only a face-saving devise for Prime Minister Indira Gandhi who had okayed Nanda's original plan. The committee met a few times and gave up. There was no point in continuing the farce. The Convener P. C. Sen was made to send a letter to the Congress President suggesting dissolution of the ad-hoc body and restoration of the old executive with a cryptic note by Atulya Ghosh at the foot of the letter that he agreed with this suggestion. Atulya Ghosh's triumph was complete and it must be conceded that his assessment of Ajoy Mukherjee's capacity proved more accurate than that of many of his colleagues.

The psychological moment for the resignation was past and all Ajoy Mukherjee could do now was to retrace his steps. Led by their extremely capable chief Jyoti Basu, the C.P.I.(M) played a deft and skilful hand. They placed themselves in Ajoy Mukherjee's hands and declared they would do his bidding from now on. Their gullible prey swallowed it all and declared himself quite satisfied. It is necessary to look at the charges that Ajoy Mukherjee levelled against the communists to understand the enormity of the deception practiced on him. In his own statement issued on October 15, Ajoy Mukherjee refers to "four problems" that led him to decide on resignation. They are:

- (1) "In the industrial field there was widespread discontent, disorders, gheraos, sometimes inhuman treatment and physical violence by labourers led by union leaders and often guided by political leaders with retaliation by industrialists." (When industrialists closed down their factories because workers had made production impossible or hospitalised all the managerial and supervisory staff, this was described as retaliation).

- (2) He declared that his policy of confining both *jotedars* and

*bargadars* to lawful methods was "not being observed by both the parties." Further, "some political parties are organising landless agricultural labourers and *bhagchasis* (*bargadars*) in groups moving about with weapons and forcibly occupying lands of *jotedars* and khas lands of the government."

(3) "Lawlessness is raising its head in different parts of the State dislocating traffic, putting thousands of people into serious difficulties and great loss, interfering with movement of foodgrains and other essential commodities sometimes leading to looting even. Some political parties sometimes are found behind such lawlessness. Under no circumstances lawlessness should be allowed."

(4) "A wing of a political party is openly inviting China to help the party in bringing about an armed revolution starting in West Bengal. Such a tendency should be nipped in the bud."

He went on to add: "But unfortunately I got opposition in this matter even from some of my friends in the United Front. There are some less important matters like insult of the Chief Minister by some employees of the State Government within the Writer's Buildings."

Allowing for a degree of understatement, this was a remarkably accurate description of the state of affairs from the Chief Minister himself.

And all his grave misgivings counted for nothing because the communists promised to be good boys in future! Disillusionment was not long in coming. By the 15th October, Ajoy Mukherjee was expressing surprise that his Deputy, Jyoti Basu, C.P.I.(M) had broken the understanding reached "that what was past was past and was not to be discussed," when he made a report to his Party's Politbureau roundly accusing the Government of India, the Governor of West Bengal, the State's Inspector General of Police and others with having indulged in a "desperate conspiracy."\* The C.P.I. was later to follow suit. Both parties were careful to avoid direct attacks on Ajoy Mukherjee who had been so understanding towards them. On behalf of the C.P.I., Bhupesh Gupta made it clear that "we do not think that Mr Ajoy Mukherjee was part of the conspiracy in West Bengal." Henceforth Ajoy

\* The Politbureau of the C.P.I.(M) adopted a resolution on the basis of Jyoti Basu's report on October 13.

#### THE OCTOBER CRISIS

Mukherjee lost what little individuality he had and functioned only as a mouthpiece of the communists.

We have anticipated events a little. The blowing over of the crisis was celebrated with a massive public meeting on the Calcutta maidan on October 7. Ajoy Mukherjee was cheered wildly and seemed well satisfied with his performance. But it was a hollow triumph. "Virtuous motives trammelled by inertia and timidity are no match for armed and resolute wickedness. . . . The cheers of weak and well-meaning assemblies soon cease to echo and their votes soon cease to count. Doom marches on."\* This lesson of history is a common one, but appears to be as uncommon as common sense.

A school-boy could have set out the situation in verse:

Who is in charge of the clattering train?  
The axles creak and the couplings strain,  
And the pace is hot, and the points are near,  
And Sleep has deadened the driver's ear;  
And the signals flash through the night in vain,  
For Death is in charge of the clattering train.

\* Winston Churchill (*Memoirs*.)

P A R T V I

*DARKNESS AND THE LIGHT*

3. The Second Crisis

ONE OF Ajoy Mukherjee's principal advisers during the October crisis was Professor Humayun Kabir, M.P., (Bangla Congress) whose disillusionment with the Congress Party roughly coincided with his exit from the Central Government where he was a Cabinet Minister. He became one of Ajoy Mukherjee's key men in the Bangla Congress and is generally believed to have been the driving force behind him in the bid to form an alternative administration with the help of the Congress Party minus Atulya Ghosh. The plan having misfired, it was inevitable that he was held responsible. Differences developed within the Bangla Congress and Professor Kabir's brother, Jehangir Kabir, resigned from the party but stopped short of giving up his ministership in Ajoy Mukherjee's government. The learned Professor sometimes gave the impression of allowing his ambitions to get ahead of his judgement. He now bent all his energies to organise an All-India party, called the Bharatya Kranti Dal, conceived as the refuge and solace of all the groups in the various States which had broken away from the Congress Party declaring that they were the true Congressmen. Professor Kabir now decided that the communists, with whom he had fought side by side in the February 1967 elections, were the bigger evil after all, and led a group of Bangla Congress M.L.A.s into the new party the B.K.D. Among the leading lights of the B.K.D. were Charan Singh, Chief Minister of U.P. and Mahamaya Prasad Sinha, Chief Minister of Bihar both fighting for survival in their own States. Hare Krushna Mahatab of Orissa whose Jana Congress is a partner in the ruling coalition in that State shrewdly suggested that the time for the formation of the new All-India party had not yet arrived but he was overruled.

The scene shifted to Indore the venue of the first session of the

B.K.D. By that time Ajoy Mukherjee and what remained of his Bangla Congress decided that they wanted to join the B.K.D. also but only if the Kabir group was put in its place.

In the result, the inaugural session of the B.K.D. turned into a demonstration between the Ajoy Mukherjee group and the Kabir group, one demanding that there must be no truck with the Congress and the other prepared to consider any alternative to get into power. The delegates from Bengal made up in numbers what they lacked in policy and discipline. The total number of delegates allotted to both groups from Bengal was 250; in a bid to show their strength more than 600 'delegates' stormed the conference and in their enthusiasm came to blows and threatened to hurl chairs at one another.

The political scene in Bengal became even more confused as a result of the B.K.D.'s formation. Meanwhile Dr P. C. Ghosh, an Independent and Minister of Food was getting more and more impatient with the communists and their tactics. He declined to attend Cabinet meetings and meetings of the super-Cabinet, the United Front Committee. He had been confident that Ajoy Mukherjee would resign and throw the communists out but when this did not happen he boldly decided to act alone. The communists were consolidating their hold with each passing day and there was no time to be lost. A month after Ajoy Mukherjee's performance on October 2, almost to the day, P. C. Ghosh tendered his resignation from the government. He was supported by sixteen other members of the Legislative Assembly. The members whose parties were in the United Front declared that they had crossed the floor and the Swatantra Party member who had maintained an independent position all these months declared that he too would vote to bring about the fall of the United Front Government.

The Governor satisfied himself by personal interview that fifteen of the sixteen M.L.A.s supported Dr Ghosh. The sixteenth member was gheraoed in his house in 24-Parganas district but had already sent a letter declaring his intentions. Faced with this situation Ajoy Mukherjee asked for time to consult his colleagues. In effect this meant that the communists and their allies wanted time to plan their strategy. This they did with great skill. It would not suit them at all to be defeated in a free vote in the Assembly. The options were therefore clear. Either

they must get back the defectors or behave in such a way as to force the Governor to dismiss them so that they could go out like martyrs loudly complaining of conspiracy and capitalist plots. They decided to use both options. Dr P. C. Ghosh had resigned on November 3. The Governor made the very reasonable suggestion that the Assembly should be convened at an early date to decide the issue. The Cabinet agreed but pleaded that the earliest convenient date would be after six weeks, December 18. When the Governor asked them to reconsider, they retaliated with a direct communication to the President demanding that the Supreme Court be consulted to define the Governor's powers. How touching is the faith of communists in constitutional government and how firm is their faith in the judiciary!

It will be recalled that barely a month ago Ajoy Mukherjee in his last show of independence had set out with unmistakable clarity the dangerous role of the C.P.I.(M) at least. He now allowed himself to be used as a pathetic tool in the hands of his communist colleagues. His brother Biswanath Mukherjee (C.P.I.) hardly ever left his side and when the Chief Minister looked like weakening in Delhi where he had gone from the B.K.D. conference he rushed there and at a press conference monopolised the interview. To his lasting shame Ajoy Mukherjee joined his communist brother in threatening a blood-bath if the United Front Government was dismissed. It is not enough that he tried to explain away his statements on his return to Calcutta. The popular Ajoy Mukherjee, hero of the great victory over P. C. Sen in the elections, the follower of Gandhi, the votary of peace and non-violence, may yet go down in history as the man who did more than anyone else to deliver Bengal to the communists.

P A R T V I

**DARKNESS AND THE LIGHT**

**4. Let Us Light a Candle**

KNOWING THAT their days in the government are numbered irrespective of whether or not they survive this new crisis, communist and other 'revolutionary' ministers worked at fever pitch to complete as much of their task as possible. Under the guidance of Hare Krishna Konar, Minister of Land Revenue, innumerable Land Reform committees and 'gana committees' (people's committees) have been set up in Darjeeling District, in Nadia District, in the 24-Parganas District, in the districts of West Dinajpur and Midnapore and wherever the communists have set up their cells. This covers a large part of West Bengal. The functions of these committees are to help redistribute land forcibly occupied by Kisan Sabha gangsters which include the khas lands of the government, to maintain 'peace' during the crucial harvesting season in November-December between *bargadars* and *jotedars*, and generally to be 'vigilant' in carrying out the government's policies.

The names of members of these officially-sponsored committees are not disclosed in spite of insistent requests to the State Secretariat. The answer given is that apart from government officials 'all' political parties active in the respective areas are represented. Investigation shows that in the case of the Siliguri Land Reform Committee (which covers also the Naxalbari areas) the seven member committee consists of the District Magistrate, the Sub-Divisional Officer, the Judicial Land Reform Officer, and four members of political parties 'represented' in the area—two C.P.I. and two C.P.I.(M). There is no reason to suppose that the pattern is very different in other districts.

The 'gana committees' main function seems to be to 'find' hoarded rice and paddy and to maintain 'peace' during the

harvesting season. In a note to the Cabinet, Hare Krishna Konar has explained his ideas. He generously concedes that landowners should get their share of the crop but in the event of any dispute between the *bargadar* and the landowner over the size of the latter's share, *bargadars* should be allowed to deposit what they consider to be the landowner's share with the government. The 'gana committees' are to assist in this process.

The trump card that the United Front wave at the Central Government is that if there is any interference with the present State Government the food procurement programme will suffer. The evidence available leads to the inference that the procurement by the Food Corporation of India and government agencies will fail in any case and they will get very little indeed of the target of one million tons. Though official figures are not available it is reliably learnt that in the calendar year 1966 in spite of the drought the procurement was 507,000 tons. In 1967 upto September 20, the figure was only 107,000 tons. Of course part of the answer is that procurement was virtually abandoned at about the end of 1966 by the Congress Government. Nevertheless the point survives that not much is going to be procured before the close of the year thanks to the well-laid plans of the communists. If the United Front government fall, that will be the reason given for the failure, if they survive, it will be the wicked Dr P. C. Ghosh who will be the scapegoat for was he not the Minister of Food?

There is also no money in the State treasury. The session of the Legislative Assembly was not resumed on August 7, as planned on the plea that the Finance bills were not ready but a Government source said the Assembly would be convened "in about a month." The month passed and another month but there was no sign of an Assembly session. Perhaps the ministers were busy with other things. When the Chief Minister was questioned he said nonchalantly on the 11th October, that no thought had been given to the question of convening the legislature at an early date. No one had consulted him on the subject nor had he spoken to anybody about it. The Finance Bills were not ready because the Government having distributed largesse amongst its supporters so readily, had no money left. No proper budget has yet been presented and the Government have been conducting their affairs on a hand to mouth basis for eight months and more.

"Unprecedented," thundered the *Statesman* in an editorial on 13th October: "No finance minister has the right to behave like this." "The Cabinet rightly objects to speculation and other financial deviousness by private persons. But is it entitled to be surprised that such things occur when it does not even show the public its own balance sheet," the editorial pointedly asked. But the Deputy Chief Minister and Finance Minister, Jyoti Basu C.P.I.(M) was unmoved. The latest available indications are that the State Government has a deficit of over Rs 36 crores (Rs 360 millions).

So while we argue about constitutional proprieties and the niceties of parliamentary government the communists and their allies consolidate their ill-gotten gains of the last few months and continue to work their foul conspiracy. With the treasury depleted and little prospect of foodgrains reaching the markets or the government store in any quantity, lawlessness and violence immeasurably strengthened, the administration demoralised and many political opponents silenced, not much more remains to be achieved by the parliamentary form of struggle. But it would be a grievous error to hold that all that has to be done is to throw the communists out of the government. Their emphasis has already shifted from parliamentary to extra-parliamentary struggle. Even after the United Front Government is no more, the main part of the problem will survive. But this is no cause for despair. We must remind ourselves that in Indonesia, for instance, the communists came within an inch of capturing power in the whole country under the benevolent protection of Dr Sukarno, when they were beaten back, and beaten back decisively.

In the normal course the Assembly session must be convened not more than six months after the end of the previous session. Therefore the United Front Government have until 2nd February to try and avoid facing the Assembly. There is more than a touch of irony in the thought that we must allow every constitutional advantage and every parliamentary concession to those who have sworn to destroy our free institutions and bury liberty in the darkness of totalitarian oppression.

Who are these communists, this pack of violent men, consumed by a hatred so bitter that they are prepared to sacrifice the land that gave them birth and deliver it bound hand and foot to a most

## **APPENDIX I**

*Eighteen Point Policy Statement of the United Front Government  
announced at a largely attended public meeting on the Calcutta  
Maidan on March 1, 1967*

### **P R E A M B L E**

THE PEOPLE OF West Bengal have given their verdict against Congress misrule and have enjoined on their accredited representatives to set up an honest, clean and efficient administration under Ministers of ability and integrity enjoying public confidence. The United Front has been constituted to carry out this mandate and accepts this responsibility with all humility. The United Front is fully conscious of the gravity of the situation caused through inefficient and corrupt handling of affairs by the Congress over a long period, non-utilisation and draining off of the resources of the State through wrong and often unholy channels and failure to meet even the minimum basic needs of the masses. The United Front is also aware of the handicaps under which the State Government has to function, the limitations imposed by the Constitution, stagnation of resources and ungenerous treatment of West Bengal by the Centre denying her legitimate share in development programmes and even in food supply from the Central pool. Even so, United Front is emboldened to shoulder the responsibility on the strength of the confidence reposed on it by the people and assures sincere and determined efforts to ameliorate the distressing condition in which the people have been thrown during Congress regime. The United Front is confident of overcoming all obstacles in the path of people's advances.

### **P O L I C I E S**

1. The Government of United Front will strive to meet the primary needs of the people in respect to food, clothing, housing,

## BENGAL: THE COMMUNIST CHALLENGE

health services and employment opportunities and will ensure efficiency, economy and impartiality in the administration.

2. The Government of United Front will relentlessly fight corruption nepotism in official and non-official spheres, profiteering, hoarding, black-marketing, amassing of ill-gotten wealth, adulteration of food and medicine and all anti-social acts fostered under Congress rule *and will liberate the forces of freedom and progress.*

3. *The Government will not rely on restrictive or merely administrative steps for relieving the acute distress due to inadequate supply and high prices of essentials but will take adequate measures for promoting production, specially of food. With this in view the Government will undertake progressive land reforms, provide to the cultivators due incentives through proper irrigation and drainage facilities, supply of fertilisers, improved seeds and scientific methods, better live-stock and agricultural credit and ensure rational price support. Particular attention will be given to the acute problems faced by poor peasants, share-croppers, agricultural labour and all sections of distressed tillers.*

4. The present food crisis that has been aggravated by the policies of the Congress Government will be tackled on an emergency basis. Distribution of essential commodities will be strictly regulated to ensure fair and equitable supply at reasonable prices and every effort will be made to set up suitable, effective and incorruptible machinery for the purpose. Wholesale trade in paddy and rice will be undertaken by the State and the margin between procurement and distribution prices will be rationalised and wastage and corruption eliminated.

5. Special emphasis will be placed on fighting unemployment and on utilising the man-power resources, specially the youth, in economic development and social services, thereby creating new employment opportunities. In this context as also for strengthening the economy of West Bengal efforts will be made to foster and promote various categories of industries, specially cottage, small and medium industries and commerce calculated to serve the people honestly and efficiently.

6. The Government will take determined steps to improve the number and quality of primary and secondary schools, *reform educational administration, remove the chaotic condi-*

## APPENDIX I

tions in the field of education at all stages, build up an integrated system of education and promote literature, sports, physical education and cultural activities calculated to build up a better future generation. *The cause of teachers and non-teaching staff and their just claims will also be duly attended to. The problems of students will also receive due consideration.*

7. The displaced persons from East Pakistan demand particular attention and the United Front will make best efforts to rehabilitating them so as to enable them to take their rightful place as full-fledged citizens of India with ample opportunities for housing, education and employment. Squatters' colonies will be regularised and agriculturists will be given special assistance.

8. *The cause of labour and workers on whom production and economic development primarily depend will be given adequate support* and working conditions in the field and in factories will be substantially improved. The feasibility of ensuring minimum or living wages for all categories of workers, industrial agriculture will also be duly attended to.

9. The United Front recognises the rights of the minority communities to follow their faith, preserve their special culture and language and noble traditions and will provide them with due protection against distrust, disability and handicaps—social, economic and educational as guaranteed in the Constitution of India. The Government will not tolerate or foster the evils threatening national integrity such as provincialism, casteism and linguistic fanaticism.

10. The Government will pay special attention to improve the conditions of scheduled castes and tribes, and backward sections of the people.

11. The special problems of women will receive due consideration.

12. The problems of Calcutta, the nerve-centre of Eastern India as also of under-developed regions e.g. Purulia, the Sunderbans and parts of North Bengal, will receive special attention and the speedy and proper implementation of Farakka and Haldia projects will be pressed for.

13. The Government will take early steps to implement the resolutions adopted unanimously by the West Bengal State Assembly to make Bengali the official language of this State and Nepali the regional language of Darjeeling hill areas.

14. The United Front Government will recognise the rights of workers, peasants, teachers and employees of all categories to form unions or associations with a view to voicing their just demands and grievances and *will not suppress democratic and legitimate struggles of the people.* *The United Front will re-orient the executive and the police in a manner consistent with the democratic aspirations of the people.* It will respect and defend fundamental civil rights and the Government of India will be urged to lift the state of emergency that empowers recourse to D.I. Act and Rules. The repeal of all anti-democratic and repressive laws including P.D. Act will also be pressed for.

15. The Government is aware of the severe limitation imposed on the State Government and its precarious dependence upon the Centre. *The United Front will strive to acquire more powers and rights for the State Government* and in particular press the Centre for meeting the legitimate share of West Bengal to larger allocations from Central revenue.

16. The question of Berubari will be taken up with the Union Government.

17. The Government will do everything for the preservation and strengthening of the sovereignty of the country.

18. *The Government will not rely merely on administrative machinery to implement the above policies* but will seek active cooperation and association of the people in all matters and at various levels. *The local self-governing institutions and Panchayats will be democratised and vitalised to truly represent the people* and will be made more effective institutions free from corruption and nepotism.

Finally, the United Front informs the people that the measures required to implement the above basic policies will be determined after careful consideration and announced in due course.

## APPENDIX 2

### SCHEDULED CASTES AND TRIBES OF WEST BENGAL (Compiled from the 1961 Census)

<b>I Scheduled Tribes</b>	Total	2,054,081	(5.88% of State's population)
<b>Mainly made up of:</b>			
Santhals	over	1,200,000	
Oraons		297,000	
Mundas		160,000	
Bhumijas		91,000	
<b>Smaller communities</b>			
include Gonds, Hajongs, Hos, etc.			
<i>In the hills</i> (Darjeeling & Jalpaiguri Districts)			
Bhutias		23,595	
Lepchas		14,309	
Totos (one time prosperous orange growers when Totopar was a centre for the orange trade.)	about	400	
<b>II Scheduled Castes</b>	Total	6,890,314	(19.73% of State's population)
<b>Mainly accounted for by:</b>			
Rajbanshis		1,202,000	
Bagdis		1,097,000	
Pondh		876,000	
Namasudras		727,000	
Bowris		501,000	
<i>In the hills</i> (Darjeeling & Jalpaiguri Districts)			
Kamis		26,148	
Damai		11,000	
Sarki		5,232	
<b>Small communities of a few hundred each of Bhogtas, Nuts, Lalbegis, Choupals</b>			
<b>Total of I and II</b>		<b>8,944,395</b>	(25.61% of State's population.)

**APPENDIX 3**

**NUMBER OF NEWSPAPERS & PERIODICALS IN  
WEST BENGAL**

<i>Frequency of publication</i>	<i>Total number published in</i>	
	<i>Bengali</i>	<i>All languages</i>
Daily	7	22
Bi- and Tri-weekly	4	13
Weekly	164	211
Fortnightly	68	124
Monthly	221	441
Bi-monthly, Quarterly, Half-yearly	91	198
Annual	4	15
	<b>559</b>	<b>1024</b>

#### **APPENDIX 4**

### **CIRCULAR DATED 7th FEBRUARY 1956 ISSUED BY THE WEST BENGAL GOVERNMENT UNDER CONGRESS ADMINISTRATION**

**Government of West Bengal  
Home Department  
Political**

**From**

**Shri M. M. Basu I.C.S.,  
Secretary to the Govt. of West Bengal.**

**To**

- (1) **The District Officer,**
- (2) **The Commissioner of Police, Calcutta.**

*Memorandum No. 138-PS. Dated Calcutta, the 7th February, 1956.  
Subject:—Action to be taken in cases of stay-in strikes and  
“Gherao” or coercive and confinement tactics resorted  
to by the employees of commercial and industrial  
undertakings.*

Cases of stay-in strike and 'gherao' or wrongful confinement of officers by employees of commercial and industrial undertakings in order to coerce the management to concede to their demands have often come to the notice of Government. It is considered necessary to indicate in broad lines the action to be taken in dealing with such occurrences. It is appreciated that each occurrence will have its own peculiar features and that District Officers will have to use their discretion in dealing with the situation as it develops. The instructions outlined below are therefore meant to indicate the broad lines of policy in dealing with such occurrences. They are not intended in any way to fetter the discretion of the local officers in using their lawful powers according to the needs of the situation they are called upon to deal with.

*"Gherao" or wrongful confinement and criminal trespass*

2. Though workers may go on peaceful strikes which are not illegal they have no right to resort to coercive methods like wrongful restraint, wrongful confinement and criminal trespass which are all cognisable offences. Such methods are also unwarranted as there is a machinery set up by law to deal with all industrial disputes.

3. It is necessary to emphasise that the Police should never lay themselves open to the charge of inaction. When the police receive information from any source whatsoever regarding such occurrences or any apprehension of such occurrences they should immediately seek confirmation thereof and proceed to the scene of occurrence particularly if police help is asked for by the management. A responsible police officer not below the rank of Sub-Inspector should be in charge of the party. On arrival at the place, the officer should contact the management to find out if police intervention is necessary.

In a case where the management asks for police intervention, the police should:—

- (a) disperse the demonstrators if it be found that they are an unlawful assembly;
- (b) arrest those who have committed or are committing cognisable offences; and
- (c) take such other action as may be called for.

4. When however the demonstration is found to be peaceful and/or police intervention is not asked for by the management the police should withdraw from the premises concerned. If in such a case the officer-in-charge of the police party considers that there is apprehension of serious trouble, he should withdraw with his force to a suitable place within reasonable distance but not within sight of the demonstrators, after intimating the fact to the management and making arrangements for establishing quick contact in case the demonstration takes an untoward turn involving lawlessness.

5. The above instructions will apply to cases where coercive methods are adopted by labourers at places other than a factory e.g. an office or any place of business.

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6. In all such cases the police immediately on getting information of any such occurrence or as soon thereafter as possible should send an intimation to the nearest District Magistrate, Sub-Divisional Magistrate or any other Magistrate having jurisdiction.

#### *Stay-in Strikes*

7. Strikes are governed by the Industrial Disputes Act, (Central Act XIV of 1947). The Act defines legal and illegal strikes. The District Officers' main concern will be the law and order aspect of the affair the industrial dispute itself being that of the Labour Department. There is provision in the Industrial Disputes Act itself for dealing with an illegal strike. The District Magistrate comes into the picture only where there is an apprehension of a breach of the peace over a strike of the stay-in variety.

8. Factory workers have a right to enter the factory. Their staying in, however becomes criminal trespass under Section 447 I.P.C. when it appears that they intend to intimidate, insult or annoy the management or to commit any other offence. It follows, therefore, that staying-in peacefully for the purpose of appealing to the management to grant some concessions would not be an offence under the I.P.C. It would be advisable to avoid police action in such cases.

9. Peaceful stay-in strikes rarely remain peaceful for long. The workers get restive and frequently take law into their own hands. Often then, a serious threat to life and property results. In such circumstances, action suggested in paras 3 to 6 above should be taken. But District Officers where possible should ascertain beforehand from the local representative of the Labour Directorate whether the strike is legal or not.

\* \* \*

*Sd/- M. M. Basu,  
Secretary to the Govt. of West Bengal*

## APPENDIX 5

## ANALYSIS OF GHERAOOS—MARCH TO SEPTEMBER 1967

Region	Total number of gheraos					Non-implementation of wages in time: violation of the provisions of Labour Laws Act; Payment of Bonus Act, etc.	Sub-Total	Miscellaneous viz. increase in wages; perman- ency of work- men; Product- ion Bonus; re- duction in sub- phy of food; overtime wages; recognition of union; etc.
	Non-employment	Suspension: charge-sheet: dismissal: discharge; re- lief of em- ployment; re- instatement; etc.	Lay-off: retrenchment: closure	Violation of laws	Non-implementation of wages in time: violation of the provisions of Labour Laws Act; Payment of Bonus Act, etc.			
CALCUTTA (North)	221	51	24	75	28	6	—	108
CALCUTTA (South)	194	44	27	71	14	13	3	93
BARRACKPORE	88	4	17	21	2	—	2	63
HOOCHLY	43	1	10	11	1	—	2	27
HOWRAH	205	24	9	33	—	3	15	154
ASANSOL	189	5	21	26	1	—	2	159
DARJEELING	39	2	4	6	3	3	1	29
JALPAIGURI	37	2	1	3	—	—	1	31
<b>TOTALS</b>	<b>1016</b>	<b>133</b>	<b>113</b>	<b>246</b>	<b>52</b>	<b>22</b>	<b>3</b>	<b>64</b>

(Compiled from official and non-official sources.)

## APPENDIX 6

### THE UNDELIVERED MAY-DAY SPEECH OF THE MINISTER FOR LABOUR, SRI SUBODH BANERJEE

TODAY IS May day—the 1st of May. To the working classes of the world this day has a special significance. The fight that was started by the workers in the Hay Market in America in 1887 for the reduction of the working hours of the day is still going on unabated. This is a day for the International Workers to renew the pledge for unity and brotherhood and also for the total elimination of all exploiting factors. On this auspicious day I extend my hearty welcome to my countrymen.

I can never forget that the common people of West Bengal, particularly the working classes, have formed the United Front Government by driving away the 20 years' rule of the Congress Government. It is quite natural that people will demand many things from this Government and that they will harbour many desires for after twenty years of freedom, there came a change in the administration of the State.

But to the people of Bengal I beg to state one thing with due respect. *First, people are quite conversant with the fact that the society they live in is a capitalist form of society and this society stands for the exploitation of the working class.* So long as this exploitation continues to exist, there will be no real freedom of the labouring classes and there cannot be any permanent solution of the basic problem of theirs. *To get freedom to have the basic problems of life permanently solved and to open up the gates to progress, a socialistic society free from exploitation will have to be formed by overthrowing the capitalist society.* For this it requires revolution. Election is no revolution. Yet we have formed a Government through election. *Secondly to get freedom from exploitation there has to be a change in the existing form of the State. The change of the ministry does not imply change in the nature of the State.* So it should be borne in mind that the system in which the United Front Government

is working is a capitalist one. This is our first and foremost limitation. Secondly it should also be kept in mind that the powers of the State are very limited according to the Constitution.

Consequently the United Front Government has to work within the constitutional limitation and under these two limitations has to work out its programme. Hence it is not possible to bring about any radical change in the lives of the people. Thus the question naturally arises as to why we joined the ministry.

First, it should be realised that despite these two limitations some reforming measures may be effected so as to render relief to the lives of the people. Secondly, through these measures it is possible to help the exploited class in its struggle for freedom. I think administration should be carried on based on this outlook. As a minister for labour I can say the main objective of the United Front Government is, on the one hand, to bring about all possible progressive laws in the midst of this social, economic and political condition of this society and on the other to help the furtherance of the legal and democratic trade union movement. With these two things in view, order has been given for the increase of minimum wages of 46 lakhs of workers of West Bengal, relevant laws are being made for the stoppage of contractual and casual system of appointment in permanent industries and attempts are also afoot with due recognition to the various forms of different Trade Unions so as to modify the labour laws. Employees' State Insurance administration has been reorganised as to make it a real safeguard for the interests of the workers. This is one side of the picture. There is also another side to the shield. *Police have been directed to see that justified democratic trade unions may grow up unfettered and that they are also ordered not to suppress democratic trade union movements for the sake of law and order. The Police will not only not suppress them but also protect them from the attacks of the employers and anti-social elements.* It is necessary here to understand the meaning of the word "justified." It is quite known to the students of ethics that an action to be justified does not necessarily conform to the existing system of laws. *In a society based on exploitation there are many legal laws which cannot be called justified in the true sense of the term.*

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As for example, the employer's right to retrench an employee. The existing society reserves the right to retrench on any ground whatsoever, a worker who sacrifices the best part of his life for the production of a particular industry. To a sensible man this right though legally correct cannot be regarded as justified. *Equally it cannot be said that that which is illegal is not justified.* Therefore the relation between employer and employee should be judged from this standpoint. What is of the utmost importance in our society now is a new outlook, a new angle of vision so that our common man may get real social justice.

This change, though not a very basic one is not without its significance. The workers of our country should understand it. There was the extreme need for the defeat of the Congress to strengthen the liberation movement, to wipe out the vicious causes in the administration created under Congress rule and *also to bring back a sense of impartiality in the judiciary and the administration that was thrown to the winds.* From this point of view the formation of the United Front Government is highly significant. With this in view, I would request the working brethren that they should organise themselves in right earnest and mobilise justified democratic movements. They should keep away from all sorts of adventurist activities. They should also rally support in favour of the progressive labour laws and other laws of the United Front Government. They should also muster strong and unite to protect the United Front Government from the reactionary onslaught and so mobilise the movement, that the United Front Government may proceed along the right path for the welfare of the people. If we can do this work, then will be felt a qualitative difference in the administration and the common man will take active part in the administration and then alone they will be able to test the real fruits of freedom in their day to day life. To achieve this goal I call upon the people on this auspicious May Day to muster strong and to organise the movement conducive to the progress of the society. Inquilab Zindabad!

(Translated from the original Bengali) .

## APPENDIX 7

### EXTRACTS FROM THE JUDGEMENT OF THE SPECIAL BENCH OF THE CALCUTTA HIGH COURT IN THE "GHERAO CASES"

MATTER NO. 343 OF 1967

Jay Engineering Works Ltd. and others .... Petitioners  
*Versus*

The State of West Bengal and others .... Respondents  
The Judges constituting the Special Bench were :  
The Hon'ble Chief Justice D. N. Sinha  
The Hon'ble Mr Justice B. N. Banerjee  
The Hon'ble Mr Justice A. N. Ray  
The Hon'ble Mr Justice Amaresh Roy  
The Hon'ble Mr Justice B. C. Mitra.

*The judgement of the Court was delivered by the Chief Justice on September 29, 1967. Mr Justice Roy and Mr Justice Mitra delivered separate concurring judgements. The Court's judgement runs into eighty-seven typed pages and is couched in memorable language. The following extracts from the judgement have been grouped under sub-headings to make reference easier.*

#### *Statement of the Case*

"In the instant case, the allegations made in the petition are as follows: The petitioner No. 1 is a limited company, known as the Jay Engineering Works. Its principal business consists of the manufacture of sewing machines and fans. It has a sales office known as the "Eastern India Usha Corporation" at No. 26 R. N. Mukherjee Road, in Calcutta. The said office employs, apart from the management staff, approximately 365 workmen. The petitioner No. 2 Ram Nath Gupta is the manager of the said office, the petitioner No. 3 Anand Prakash Goel is the office superintendent, the petitioner No. 4, Srikesh Lahiri is the area

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supervisor and the petitioner No. 5 Sudhir Kumar Mukherjee is also an area supervisor, and the petitioners Nos. 6 and 7, Baijnath Kapur and Babulal Toshi are supervisors, in the said office. The respondent No. 8, the Jay Engineering Workers' Union is registered under the Trade Unions Act, 1926. The respondent No. 17 Raghunath Kushari is the executive member of the said union, while the respondents Nos. 9 to 16 and 18 to 28 are members of the said union. On or about 17th January, 1967, 18 employees of the sales office, including respondents Nos. 9 to 12 and 18 to 22 were retrenched. We are not concerned in this case with the legality of the retrenchment. On the 27th January 1967, at about 1 p.m. the retrenched employees along with 70 others, blockaded the said corporation's premises, completely obstructing the passage of personnel and goods, including foodstuffs for the barricaded persons inside, who were wrongfully confined therein. The blockade was lifted at 3 a.m. on 28th January 1967, after police intervention. On the 1st March 1967, the present Government in West Bengal, came into office. On 2nd March 1967, the retrenched workers, together with other employees numbering about 200 persons gheraoed the manager (petitioner No. 2) and other officers at the office premises from 1 p.m., and the gherao continued for 33 hours, being lifted at 10 p.m. on 3rd March, 1967.

It is said that the said persons confined the manager, the petitioner No. 2 and the other officers, namely the petitioners Nos. 3 to 7, tampered with the company's property, spoilt the walls and continuously shouted insulting and humiliating slogans against the confined persons. Supply of food to those confined was not permitted except for a nominal quantity at the will of the besiegers. Information was given to the police authorities at Hare Street Police Station, but no action was taken.

On the 17th April 1967, at 11 a.m. the said retrenched workers, together with other employees numbering about 100 to 150 persons gheraoed the manager and other officials at the said office and kept them under wrongful confinement. The besiegers trespassed into the office, tampered with property and shouted insulting and humiliating slogans against the confined persons. Only a minimal amount of food was allowed to be taken in, at the will of the besiegers. Information was given to the police but no action was taken. Subsequently, an application was made

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before the Chief Presidency Magistrate, Calcutta under section 100 of the Criminal Procedure Code, who ordered the officer-in-charge, Hare Street Police Station, to search and rescue the confined persons and produce them before him. The confined persons were accordingly rescued at about 10 p.m. on 18th April 1967.

Again on 29th May 1967, the Manager and other officers were gheraoed and wrongfully confined in the office for over 5 hours, from 10-30 a.m. to 3-30 p.m. Information was given to the police but no action was taken.

The rule in this case was issued on 8th June 1967 and an interim injunction was issued directing that no effect should be given to a Circular issued by Government dated 27th March 1967. It is the common case of the petitioners in this series of gherao cases, that the primary reason for the total inaction of the police lies in the fact that the State Government, through its Joint Secretary, in its Home and Political Department, has issued two circulars as follows :

- (1) No. 513 P.C. Dt. 27th March 1967, addressed to all District Officers and the Commissioner of Police, Calcutta.
- (2) No. P-914 P.S. Dt. 12th June 1967,

and it is by reason of these two circulars that the police have been reduced to total inaction."

\* \* \*

### *Questions for Decision*

"Upon these facts the following questions have been raised:-

- (1) *What is a "gherao"?*
- (2) *Is "gherao" as practised in this case lawful?*
- (3) *Are the circulars dated 27th March 1967 and 12th June 1967 and/or the decisions, if any upon which they are based, lawful or competent?*
- (4) *Did the respondents 6 and 7 fail to perform their legal duties either in obedience of the said circulars or otherwise?*
- (5) *To what relief are the petitioners entitled?*

It is necessary to mention here that the facts in the various cases, although similar, are not identical. In matters other than the

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case of the Bengal Enamel Co. Ltd. we have instances of encirclement, whereas in that case, the allegation is one of ouster. But all the cases involve one thing in common, namely the determination as to whether the two circulars issued on behalf of the Government of West Bengal, one dated 27th March, 1967 and another dated 12th June, 1967 mentioned above, are competent, or whether they should be set aside or quashed or appropriate orders made in respect thereof. Another important point that is common in all these cases is as to what were the 'legitimate trade union rights of the workers in an industry.'

\* \* \*

### *Analysis of the two Circulars*

"Let us now come to the two impugned circulars and see what they contain. The first circular dated 27th March 1967, may be analysed as follows:

(i) Instructions given previously in the Government Memo. No. 138 P.S. dated 7th February 1956 superseded. The previous circular dealt with 'Gherao' as well as other matters like—'stay-in strikes', 'Removal of finished goods from factories on strike' etc. It is not at all clear whether it was intended to supersede these matters also.

(ii) In case of gherao of industrial establishments by their workers, resulting in confinement of managerial and other staff, the matter should be immediately referred to the Labour Minister and no police intervention for the rescue of the confined personnel should be decided upon without obtaining his direction. It plainly means that where by means of gherao, the managerial or other staff of an industrial establishment have been wrongfully confined, and this comes to the knowledge of the Police either by means of an information lodged or otherwise they must obtain the direction of the Labour Minister, before taking action, and act according to such direction.

Coming next to the circular dated 12th June 1967, it may be analysed as follows:

- (1) It was to be followed by all authorities connected with the maintenance of law and order, particularly the police. As explained below, it can only mean, the police and the magistracy.

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- (2) The police must not intervene in 'legitimate labour movements', which is now admitted to mean 'legitimate Trade Union rights.'
- (3) When a complaint is made to the police regarding unlawful activities in connection with any 'legitimate labour movements,' the police instead of following the procedure prescribed by law, must first investigate the facts and if they are satisfied that the complaint has basis in fact, then alone can any action in law be taken.

In respect of this circular, the most surprising thing is that it does not by itself refer to the High Court injunction, which had been passed in the meantime.

These two circulars were addressed to all 'District Officers' and the Commissioner of Police, Calcutta. It is not ex-facie clear as to what is meant by 'District Officers,' but the matter is made clear by the endorsement made in the cabinet decision dated 14th March 1967, showing that it was sent to the Inspecor General of Police; All District Magistrates; All Superintendents of Police; and to the Commissioner of Police, Calcutta. The first circular speaks of 'police intervention' at a Gherao but the second circular expressly mentions 'all officers; specially those connected with maintenance of law and order,' and asks them not to interfere in 'legitimate labour movements.' It will have to be considered whether this is not also an attempt to dictate to magistrates carrying out their judicial duties, under the Criminal Procedure Code."

\* \* \*

"In all these cases, it is stated that the police were informed and letters were written to the District Magistrate and others, but no step or action was taken, because of the prohibition contained in the two circulars mentioned above."

*Affidavits of Police Officer and Joint Secretary to Government*

". . . there are allegations that the manager and other officers were gheraoed by certain employees and wrongfully confined for long periods without food, destruction of property and the shouting of insults and abuses.

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All this was done to force the petitioners to take back certain retrenched personnel. It is alleged that inspite of information given to the police, they took no action, subsequent to March 1967. Only two affidavits have been filed in this case. One is by Nirmal Kumar Banerjee, Officer-in-charge of the Hare Street Police Station and the other is by Amal Kumar Dutt, Joint Secretary Home (Political) Department of the State of West Bengal, who has signed the two impugned circulars. As regards the officer-in-charge of the Hare Street Police Station, he deals only with the period subsequent to the order of this Court made on 8th June 1967. There is no denial of the allegations made in respect of the period prior thereto, made in paragraph 12 of the petition. In fact, these allegations have not been denied at all. *We must take it therefore that inspite of informations given of 'gherao' and the commission of cognisable offences, he took no action and rendered no help, until he was forced to do so under orders of this Court or of the Chief Presidency Magistrate.* On the question as to whether he was prevented from carrying out his lawful duties as a result of the interdict contained in the two circulars, he maintains a discreet silence. The affidavit of the Joint Secretary, Home (Political) Department is even more uninformative. He says that an 'administrative' circular was issued on March 27, 1967 whereby the police authorities were directed to take instructions from the Labour Minister before taking action in regard to Gherao in industrial establishments. He does not say as to who authorised him to say that the previous circular of 7th February 1956 stood superseded. He says that after the issue of an injunction by this Court the operation of the Circular dated March 27, 1967 was stayed and a 'fresh' circular dated 12th June 1967 was issued. No particulars have been given about the alleged 'stay.' He concludes by expressing a touching regard for the provisions of the Criminal Procedure Code, and submits that the petitioner might have received complete relief under that Act without throwing any light on the point as to why its provisions were allowed to be wantonly violated and under which of its provisions the petitioners could have obtained complete relief when the police were themselves prevented from doing their duty as prescribed by law.

The result is that, so far as the facts are concerned, they are more or less admitted in this case."

*Definition of 'Gherao'*

"In view of the observations made above, we might now define the word 'gherao,' as a physical blockade of a target, either by encirclement or forcible occupation. The 'target' may be a place or a person or persons, usually the managerial or supervisory staff of an industrial establishment. The blockade may be complete or partial and is invariably accompanied by wrongful restraint, and/or wrongful confinement, and occasionally accompanied by assault, criminal trespass, mischief to person and property, unlawful assembly and various other criminal offences. Some of the offences complained of are cruel and inhuman, like confinement in a small space without lights or fans, and for long periods without food or communication with the outside world. The persons confined are beaten, humiliated by abuse and not allowed even to answer calls of nature and subjected to various other forms of torture, and are completely at the mercy of the besiegers. The object is to compel those who control industry to submit to the demands of the workers, without recourse to the machinery provided for by law and in wanton disregard of it. In short to achieve their object, not by peaceful means, but by violence."

*Provisions of I.P.C., Cr. P.C. & Police Acts*

*The learned Chief Justice then examined the provisions of the Indian Penal Code, the Code of Criminal Procedure and the Calcutta Police Act. In the Indian Penal Code he referred to:*

- (1) *Section 120A—Criminal Conspiracy*  
"It is a cognisable offence if the offence which is the subject of the conspiracy is a cognisable offence."
- (2) *Section 141—Unlawful Assembly.*  
"It is a cognisable offence."
- (3) *Section 146—Rioting.*  
"It is a cognisable offence."
- (4) *Section 339—Wrongful restraint, and Section 340—Wrongful confinement.*  
"Both are cognisable offences."
- (5) *Sections 351—Assault, and Section 357—Assault or criminal force in attempt wrongfully to confine a person.*  
"This is a cognisable offence."

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- (6) *Section 378-Theft.*  
"This is a cognisable offence."
  - (7) *Section 440-Mischief.*  
"It is a cognisable offence."
  - (8) *Section 441-Criminal Trespass.*  
"It is a cognisable offence," and *Section 442-House Trespass* "which is also a cognisable offence."
- \* \* \*

"A gherao, of the description mentioned above, invariably involves the commission of offences under sections 339 and 340 and may involve offences under one or more of the sections mentioned above.

Let us now come to the relevant provisions of the Criminal Procedure Code. Section 54 provides that any police officer may, without an order from a magistrate and without a warrant, arrest any person who has been concerned in any cognisable offence or against whom a reasonable complaint has been made or credible information has been received, or a reasonable suspicion exists of having been so concerned.

Under section 127, any Magistrate or officer-in-charge of a police station may command any unlawful assembly, or any assembly of five or more persons likely to cause disturbance of public peace, to disperse, and it shall thereupon be the duty of the members of such assembly to disperse accordingly. It applies to the police in the town of Calcutta. Chapter XIII of the Code deals with preventive action of the police. It is undoubtedly the duty of the police, not only to apprehend those that have committed an offence, but also to take steps to prevent it being committed. Perhaps, prevention is the more important phase of their duty and is illustrative of the homely phrase—Prevention is better than cure."

\* \* \*

"Under section 156, any officer in charge of a police station may, without the order of a Magistrate, investigate any cognisable case which a court having jurisdiction over the local area within the limits of such station would have power to inquire into or try under the provisions of Chapter XV relating to the place of enquiry or trial. Under sub-section (3) a Magistrate empowered under section 190 may order such an investigation.

Information given under section 154 is called a First Information Report and involves certain formalities. *But the police are not required to sit on their haunches at the Thana premises, waiting for some one to come and give a written or signed information. It is their duty to keep themselves informed and power is given to act even on suspicion.*"

\* \* \*

"I now come to the Calcutta Police Act, 1866, which applies in this case. The important section is section 10A, the relevant part whereof is set out below:

'Sec. 10A(1). It shall be the duty of every Police officer

- (a) -----
- (b) to the best of his ability, to obtain intelligence concerning the commission of cognisable offences or designs to commit such offences, and to lay such information and to take such other steps consistent with law and with the orders of his superiors as are best calculated to bring offenders to justice or to prevent the commission of cognisable offences, or the commission of non-cognisable offences within his view.
- (c) -----
- (d) to apprehend, all persons whom he is legally authorised to apprehend, and for whose apprehension there is sufficient reason.
- (e) -----
- (f) to discharge such duties as are imposed upon him by law for the time being in force.'

The other police Acts mentioned above are not applicable to this case and will be dealt with in cases where they are applicable. It will be observed that, while certain provisions of the Criminal Procedure Code are couched in words which merely give power to the officer-in-charge of a police station to act in the case of cognisable offences, the above provision makes it his duty to take steps to prevent commission of cognisable offences and to take such other steps as are best calculated to bring offenders to justice and to apprehend all persons whom he is

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legally authorised to apprehend and for whose apprehension there is sufficient reason."

### *Constitutional Provisions Considered*

"We next come to the Constitution and its provisions, such as are relevant in the present case. It must first be stated that our Constitution is based on 'The Rule of Law.' Justice Douglas in his Tagore Law Lectures notes with pleasure that the Indian Constitution is based on the Rule of Law, and that it establishes a government of law and not by men. *Chief Justice Lord Hewart*, in his celebrated book—"The New Despotism" says: "What is meant here by the 'Rule of Law' is the supremacy or the predominance of the law, as distinguished from mere arbitrariness or from some alternative mode, which is not law, of determining or disposing of the rights of individuals. . . . The underlying contrast, the permanent antithesis is between the supremacy of the law on the one hand and, on the other hand, the arbitrary, which may easily prove to be the capricious exercise of lawless power. Nothing perhaps is more profoundly repugnant to the English mind than that authority should be so irresponsible or uncontrolled, that it should operate at pleasure or in the dark, that men should live in an atmosphere of uncertainty as to the nature of the rights they enjoy or the penalties to which they are exposed, or that among fellow-citizens there should be one code for one class of persons and a different code for others."

"In our Constitution, the law is paramount. There are three branches of the Government: the legislature, the judiciary and the executive. The legislature is entrusted with the making of the laws which are all subject to the over-riding provisions of the Constitution. The judiciary is in charge of administering the laws. It is always for the judiciary to say as to what the law is, whether it has been observed or violated and to punish the offender. The residuary power is vested in the executive who govern the land, subject to the laws. This is emphasised in Article 256 which runs as follows:

'The executive power of every State shall be so exercised as to ensure compliance with the laws made by Parliament and any existing laws which apply in that State.'

The reason for this lies in the fact that the rule of law demands that power in the hands of the executive cannot be coupled with the determination by itself as to whether it has been exercised according to law. That would at once result in the deprivation of the liberty of the citizen. *Lord Denning in "Freedom under the Law"* says:

*"All power corrupts. Total power corrupts absolutely. And the trouble about it is that an official who is the possessor of that power often does not realise when he is abusing it. Its influence is so insidious that he may be believing that he is acting for the public good when, in truth all he is doing is to assert his own brief authority. The Jack-in-office never realises that he is being a little tyrant."*

Mr Sen has cited before us the classical case of Entick V. Carrington, Howards State Trials 103. In that case the Secretary of State issued warrants which were executed by officials, to search houses, seize papers and to seize the persons from whom the papers were seized and bring them with the papers to the Secretary of State. It was argued on behalf of the Secretary of State that such power is essential to good government, and the only means of quieting clamours and sedition.

*Lord Camden said:*

*"This power, so claimed by the Secretary of State is not supported by one single citation from any law book . . . . If it is law, it will be found in our books. If it is not to be found there, it is not law. . . . The great end for which men entered society, was to secure their property. That right is preserved sacred and incommunicable in all instances, where it has not been taken away or abridged by some public law for the good of the whole. The cases where this right of property is set aside by private law are various. Distresses, executions, forfeitures, taxes etc. are all of this description, wherein every man by common consent gives up that right, for the sake of justice and the general good. By the laws of England, every invasion of private property, be it so minute, is a trespass. No man can set his foot upon my ground without*

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my licence, but he is liable to an action, though the damage be nothing, which is proved by every declaration in trespass, where the defendant is called upon to answer for bruising the grass and even treading upon the soil. If he admits the fact, he is bound to show by way of justification that some positive law has empowered or excused him. The justification is submitted to the judges, who are to look into the books and if such a justification can be maintained by the text of the statute law or by the principles of common law. If no such excuse can be found or produced, the silence of the books is an authority against the defendant, and the plaintiff must have judgement.'

*This is also the law of this land, under the Constitution. Life, liberty and the enjoyment of property cannot be disturbed or taken away, except under the authority of law. The executive must at all times obey the law and be continuously ready to show to the Courts, whenever called upon, that they have done so.* This has been expressed in felicitous language by the Judicial Committee of the Privy Council in *Eshugbayi Eleko v. Officers administering the Government of Nigeria* (1931) AC 662, where Lord Atkin said:

'The Governor acting under the Ordinance acts solely under executive powers, and is in no sense a Court; as the executive, he can only act in pursuance of the powers given to him by law. In accordance with British Jurisprudence no member of the Executive can interfere with the liberty of property of a British subject except on the condition that he can support the legality of his action before a Court of Justice. And it is the tradition of British Justice that judges should not shrink from deciding such issues in the face of the executive.'

This is also the position under our Constitution and has been followed by the Supreme Court in the case of *Bidi Supply Co. v. Union of India AIR (1956) SC 479*.

I may now enumerate the precise provisions of the Constitution which have been relied upon in this case. Part III of the Constitution deals with Fundamental Rights which the Constitution guarantees. No law which violates its provisions can be

said to be good law. Under Article 12,—‘the State’ includes the Government. Article 13(2) lays down that the State shall not make any law which takes away or abridges the rights conferred by this Part of the Constitution, and any law made in contravention of the clause shall, to the extent of the contravention, be void. Under Cl. (3) (a), the expression ‘law’ includes any order or notification. Article 14 enjoins that the State shall not deny to any person equality before the law or the equal protection of the laws within the territory of India. Article 19(1) (d) lays down that all citizens shall have the right to move freely throughout the territory of India. This is subject to the provisions of Cl. 2 (5), granting power to the State to make any law imposing reasonable restriction on such right. Article 21 lays down that no person shall be deprived of his life or personal liberty except according to procedure established by law. Article 256 has already been set out above, which provides that the executive power of every State shall be so exercised as to ensure compliance with the law made by Parliament. Before I finally deal with the crucial point as to whether the two impugned circulars are valid, it will be necessary to examine another branch of the law. In the circular dated 12th June 1967, the expression used is ‘legitimate labour movements.’ The argument advanced is that the effort made by Government was to protect only such legitimate rights as the worker has against his employer. The learned Advocate-General has argued that the expression used above, refers to legitimate trade union rights and it is not disputed that this is what the expression was intended to mean. It will therefore be necessary to examine what those rights are. This is of the greatest importance, for if it is found that the Trade-Union rights are such that they make gheraos lawful, then the circulars cannot be assailed as invalid.”

### *Background of Labour Legislation*

“Before the World War I (1914-18), there was no industrial legislation in India and the idea of settling industrial disputes by legislation was not known. The ordinary principles of master and servant governed the relations of the employer and the employee in an industrial concern. During the war, manufacturers in this country made phenomenal profits and there was a

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significant increase in the employment of industrial labour. The holding of the International Labour Conference at Washington in 1919 in which India participated raised the consciousness of labour to their own plight. The spasmodic occurrences of strikes led to important amendments in the Factories Act in 1922 but no step was taken to bring about amicable relations between labour and its employer by means of legislation. The provinces of Bengal and Bombay took the initiative to consider the report on the practicability of creating a machinery to settle industrial disputes.

It is significant that a Committee was appointed in Bengal which was not in favour of intervention or any special legislation regarding labour disputes. Bombay however was in favour of legislation establishing industrial courts. Legislation however was inevitable, in the face of growing conflicts between capital and labour, and we find a number of statutes being passed, e.g. the Workmen's Compensation Act 1923, the Mines Act of 1923 and the Trade Unions Act of 1926. In 1929, the first Indian Trade Disputes Act was passed, which has now been replaced by the Industrial Disputes Act 1947. In 1932 was passed the Criminal Law Amendment Act 1932, as a result of the Civil Disobedience movement. In furtherance of the recommendation of a Royal Commission, was passed the Payment of Wages Act 1936 and the Employment of Children Act 1938. In 1942, Rule 81 was incorporated in the Defence of India Rules to prevent strikes and lock-outs. The origin of trade unionism in India may be traced back to 1890 when workers of Bombay organised a union called the Bombay Millhands Association. In England trade unionism existed under the Common Law but it existed under several handicaps and had to be developed by continuous legislation. In 1921, the Madras High Court granted an injunction restraining the Madras Textile Labour Union officials from influencing labourers in the Buckingham and Carnatic Mills from breaking their contract with their employers by means of a strike with a view to obtain increased wages. This led to intensive agitation and resulted in the passing of the Indian Trade Unions Act (XVI of 1926) which came into force on 1st June 1927. The main object of the Act is to give registered trade unions a legal and corporate status and their executive and members immunity from civil and criminal

liability in respect of strike. It was amended in 1947 by the Indian Trade Unions (Amendment) Act 1947 which primarily dealt with the recognition of Trade Unions but the provisions have not yet come into force as the Central Government has not to this day issued the requisite notification.

All parties have agreed before us that, what is described as 'legitimate labour movements' in the circular of 12th June 1967, is nothing but 'Trade Union rights,' which are contained in the sections 17 and 18 of the Indian Trade Unions Act (XVI of 1926) but are subject to section 7 of the Criminal Law Amendment Act 1932. Reference may also be made to the cognate act, the Industrial Disputes Act (XIV of 1947).

Section 17 of the Trade Unions Act 1926 is set out below:

'Sec. 17—Criminal conspiracy in trade disputes.

No officer or member of a registered Trade Union shall be liable to punishment under sub-sec. (2) of Section 120B of the Indian Penal Code (XLV of 1860) in respect of any agreement made between the members for the purpose of furthering any such object of the Trade Union as is specified in section 15, unless the agreement is an agreement to commit an offence.'

Section 15 sets out the object for which the general funds may be spent. Apart from the specified objects, there is an omnibus clause empowering the appropriate Government to add to the list by notification in the official Gazette.

Section 18 is set out below :

'Sec. 18—Immunity from civil suit in certain cases.

(1) No suit or other legal proceeding shall be maintainable in any Civil Court against any registered Trade Union or any officer or member thereof in respect of any act done in contemplation or furtherance of a trade dispute to which a member of the Trade Union is a party on the ground only that such act induces some other person to break a contract of employment, or that it is in interference with the trade, business or employment of some other person or with the right of some other person to dispose of his capital or of his labour as he will.

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- (2) A registered Trade Union shall not be liable in any suit or other legal proceeding in any Civil Court in respect of any tortious act done in contemplation or furtherance of a trade dispute by an agent of the Trade Union if it is proved that such person acted without the knowledge of, or contrary to express instructions given by, the executive of the Trade Union.'

As regards sec. 17, the immunity given is of a limited nature and must be clearly understood. Sec. 120B of the I.P.C. is really the punishing section in respect of section 120A, set out in an earlier part of this judgement. What sec. 17 provides is that, an agreement to do things in furtherance of the objects set out in sec. 15 will not amount to a criminal conspiracy. Firstly, it will be observed that those objects are limited to the objects for which the funds of a Trade Union can be spent and do not relate to general objects. If in furtherance of such a limited objective, there is an agreement to commit an illegal act or an act which is not illegal by illegal means, then such an agreement will not amount to an offence under sec. 120A. But to all this there is a blanket exception, namely, that an agreement to commit an offence will never be excused. The relevant part of sec. 17 of the Criminal Law Amendment Act 1932 (XXIII of 1932) is set out below : .

'Sec. 17—Molesting a person to the prejudice of employment or business (1) whoever :

- (a) with intent to cause any person to abstain from doing or to do any act which such person has a right to do or to abstain from doing, obstructs or uses violence to or intimidates such person or any member of his family a person in his employ or loiters at or near a place where such person or member or employed person resides or works or carries on business or happens to be, or persistently follows him from place to place or interferes with any property owned or used by him or deprives him of or hinders him in use thereof; or
- (b) loiters or does any similar act at or near the place where a person carries on business in such a way and with such intent that any person may thereby be deterred from

entering or approaching or dealing at such places shall be punished with imprisonment which may extend to six months or with fine which may extend to five hundred rupees or both....'

The Act is to come into operation in such area as the Central Government, by notification directs. It has been applied to various districts of West Bengal. The general impression is that it applies in the city of Calcutta, but I must mention that we have not been able to lay hands on the precise notification in respect of it. The object of the Section is to punish picketing which takes the form of molestation of a person to the prejudice of his employment or business. In *R. C. Ruikar v. Emperor* A.I.R. (1936) Nag. 149, the Court was dealing with a case of picketing. While it was held that peaceful strike or peaceful picketing was permissible, molestation in course of picketing was held to come under the mischief of sec. 7 of the Criminal Law Amendment Act 1932. Grille C. J. said as follows:

'The next contention is that there is a definite conflict between sec. 7, Criminal Law Amendment Act and the Trade Unions Act of 1926. It is contended that the valuable right given to Trade Unions to declare a strike and their immunity from liability for criminal conspiracy or to civil suits in connection with the furtherance of a strike is taken away if sec. 7, Criminal Law Amendment Act is held to be applicable to trade disputes. I am unable to see any conflict. *Trade Unions have the right to declare strikes and to certain acts in furtherance of trade disputes. They are not liable civilly for such acts or criminally for conspiracy in the furtherance of such acts as Trade Unions Act permits, but there is nothing in that Act, which apart from immunity from criminal conspiracy allows immunity from any criminal offence.*'

It was held that the accused had rightly been convicted of having abetted an offence punishable under sec. 7 namely molestation while picketing.

Sections 17 and 18 of the Indian Trade Unions Act and sec. 7 of the Criminal Law Amendment Act 1932 are based on

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the English Law, but it must not be thought that they are identical.

\* \* \*

"In our law there are no specific provisions to strikes or picketing or molestation or watching and besetting etc. All that there is, can be said to be contained in the Indian Trade Unions Act 1926 or the Amendment Act 1947 (which deals with the matter of recognition of trade union), the Criminal Law Amendment Act 1932 and the Industrial Disputes Act 1947. The last mentioned Act does not affect or regulate Trade Unions as such, but certain provisions e.g. which make strikes illegal under certain circumstances, are of interest. Certain provisions of the Defence of India Rules are also pertinent. It will be seen however, from a perusal of all these statutes, that both in the English as well as the Indian Law, regulating Trade Unionism violence, molestation, intimidation or the commission of offences against the Criminal Laws of the land, are inhibited."

### *Concessions by Advocate-General*

"Before I proceed further, I have to set out certain concessions made by the learned Advocate-General, in order to shorten the proceedings:

1. If the impugned circulars are executive orders and are found to be violative of the Constitution or constitute an invasion of the rights of a citizen or is contrary to any provision of law, then the persons affected by it might apply to Court, which can strike them down, in a properly framed application.
2. If a person or number of persons wrongfully restrain or wrongfully confine another person or persons it is elementary that the matter comes under sections 339, 340 read with secs. 341, 342 of the I.P.C., as the case may be, and can not be saved by sec. 17 of the Trade Unions Act 1926 or indeed any provisions thereof. A combination of industrial workers cannot claim immunity from being charged with criminal conspiracy, if they conspire to commit an offence. Whether there was a conspiracy to commit an offence is a matter of fact, the onus of proving

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which is on the petitioner. The commission of an offence is not excused by any other law.

*Much of our task has been minimised by reason of the fact that the learned Advocate-General has conceded that neither section 17 nor 18 of the Trade Unions Act exempts an agreement to commit an offence or the commission of an offence except to the limited extent, laid down in sec. 17 of the Trade Unions Act."*

### Decisions Cited

"It is therefore not necessary to delve into the authorities for such a proposition; but since certain decisions have been cited before us I shall briefly notice some of them here."

\* \* \*

"In Kameswar Prosad v. State of Bihar A.I.R. (1962) S.C. 1166 and O. K. Ghose and Anr. v. Ex. Joseph A.I.R. (1963) S.C. 812 it has been held that the right to strike is not a fundamental right guaranteed by the Constitution. The right to form an association is guaranteed by Article 19(1) (c) but *where rules have been framed prescribing that a government servant will not be entitled to join a strike this is not a violation of the Constitution and cannot be struck down, whereas a provision that he cannot form any association or become a member of any association not recognised by government would be violation of the fundamental right under Art. 19 and should be struck down.*"

\* \* \*

"The net result of the decisions set out above is that sections 17 and 18 of the Indian Trade Unions Act grant certain exemptions to members of a trade union, but there is no exemption against either an agreement to commit an offence or intimidation, molestation or violence, where they amount to an offence. Members of a trade union may resort to a peaceful strike, that is to say cessation of work with the common object of enforcing their claim. Such strikes must be peaceful and not violent and there is no exemption where an offence is committed.

Therefore, a concerted movement by workmen by gathering together either outside the industrial establishment or inside, within the working hours is permissible when it is peaceful

and does not violate the provisions of law. But when such a gathering is unlawful or commits an offence then the exemption is lost. Thus, where it resorts to unlawful confinement of persons criminal trespass or where it becomes violent and indulges in criminal force or criminal assault or mischief to person or property or molestation or intimidation, the exemption can no longer be claimed."

### *The Circulars Considered*

"I now come to a consideration of the real point in this case, namely the two impugned circulars. The learned Advocate-General dealt at length with the circular dated the 7th February, 1956 the relevant part whereof has been set out above. He argued that this circular which was issued by the previous Government of West Bengal, contained many unlawful directions. He pointed out that the same infirmity as contained therein are not to be found in the two impugned circulars in this case. For example, he points out that in this circular when police received information regarding a gherao involving wrongful restraint, wrongful confinement and criminal trespass which are all cognisable offences, the direction was to proceed to the scene but on arrival the police should contact the management and only intervene where the management asked for police intervention. Even if there was an unlawful assembly or a cognisable offence has been committed, they were to withdraw at a distance unless the management wanted assistance. It was also provided that where there was a serious threat to life and property the police were to ascertain from the local representative of the Labour Directorate whether the strike was legal or not. Where removal of finished goods from the factory was interrupted, thus committing a criminal offence, the district officer was invariably to consult the Labour Department to find out what should be the appropriate time for intervention. The learned Advocate General argues that the impugned circular dated the 27th March 1967, was really an attempt to supersede the illegal directions contained in the earlier circular and there is nothing in it which is contrary to law. First, of all, *we are not concerned in this case with the 1956 circular. I think that there is much in what the learned Advocate-General says about its illegality.*

The learned Advocate-General has argued that in the 1956 circular, the pride of place was given to the management. Nothing was to be done without consulting the management. The present Government did not like this emphasis and gave no privileged position to the management, but were more concerned with labour. That is why recourse was directed to the Labour Minister. He says that today, labour has become restive because of the great delay in labour adjudications and implementation of their awards. All that was done by the impugned circular was to give an opportunity to the Labour Minister to intervene and settle disputes, preventing violence. It is impossible for us to say whether the policy of government has changed or whether the change is more beneficial to employers or the employed. *We should have thought that a Government to be worth the name should represent both the employer and the employed and protect their rights impartially and in a manner which will be of the greatest assistance to national progress.* For national progress, what is required is the rapid industrialisation of the country, the modernisation of existing industries, the increase of production, the increase of exports and the increase of per-capita earning. This can only be achieved in an atmosphere of peace and co-operation between labour and the management. How this can be achieved by encouraging violence and intimidation or the playing of the one against the other by successive governments is beyond my comprehension. However the point to be considered by us at present is as to whether the two impugned circulars contravene the law. I shall now deal with the circular dated 27th March 1967. The first thing that should be noted is that it speaks of a 'gherao' and states on the face of it that it is applicable to a case where an industrial establishment is gheraoed by its workers resulting in the confinement of its managerial and other staff. It is obvious that the word 'confinement' means wrongful confinement, bringing it within the ambit of section 340 of the Indian Penal Code. The learned Advocate-General points out that this circular is confined to police intervention for the 'rescue' of the confined personnel. He argues that the Criminal Procedure Code does not provide for any kind of 'rescue' by the Police, and can refer only to Section 100 of the Code which gives power to a magistrate to issue a search warrant and when such a warrant is

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issued, the police can search for a person and rescue him. According to him, there is nothing in this circular which prevents the magistrate from doing so. In my opinion this is not a substantial argument. It is true that the word 'rescue' is not to be found in the Criminal Procedure Code, but it can mean one of two things. Assuming, as the circular does, that an industrial establishment is gheraoed by its workers, resulting in wrongful confinement of its managerial and other staff, rescue could be effected either by the issue of a search warrant under section 100, and this can only be by a magistrate, or it can be done by action under either section 54 or 127 of the Code. Section 54 provides that any police officer may without an order from a magistrate and without any warrant, arrest any person who has been concerned in any cognisable offence or against whom a reasonable complaint has been made or credible information has been received, or a reasonable suspicion exists of his having been so concerned. If the person found to be committing the cognisable offence of wrongful restraint or wrongful confinement be arrested, then the persons confined would be able to escape or be rid of the wrongful restraint or wrongful confinement, and would thereby be 'rescued.' Next, we have section 127. Section 127 of the Code lays down that any magistrate or the officer-in-charge of a police station may command any unlawful assembly, or any assembly of five or more persons likely to cause a disturbance of the public peace, to disperse; and it shall thereupon be the duty of the members of such assembly to disperse accordingly. In the case of a 'gherao' contemplated under the circular, the officer-in-charge, if he finds that there is an unlawful assembly, can take steps to disperse the same and for this no order of a magistrate is necessary. If the unlawful assembly or an assembly of five or more persons likely to cause disturbance of the public peace, be dispersed, then the confined persons would be able to escape or be rid of the wrongful restraint or confinement and thus can be said to be 'rescued.' Let us see whether the circular prohibits or obstructs action under Section 54 or 127. The learned Advocate-General argued that in the present case it was not a practicable proposition to arrest hundreds of persons who were found gheraoing the managerial and other staff. In my opinion, in order to test the legality of the circular, we are not confined to the present case.

If the circular prohibits or obstructs the carrying out of a power or duty, or even the discretion granted under the Code, under any circumstances, then it would be bad. *As I read the circular, even in a case where the officer-in-charge can easily take steps under section 54 or 127 he cannot do so because of the absolute prohibition contained in the circular which says that he must immediately refer to the Labour Minister and his direction be obtained before deciding upon any police intervention.*

The Criminal Procedure Code does not require the officer-in-charge to obtain any such direction. *The obtaining of direction naturally means that the Labour Minister may allow, prohibit or delay action being taken by the Officer-in-charge.* Let us take a simple case. A manager is confined in a room with 2 single doors. This door is blocked by let us say 10 persons who had wrongfully confined the manager. The Officer-in-charge, upon information received finds that there is such a confinement and let us assume that he has sufficient police force in his command to arrest the persons under section 54. But he cannot do so, because under the circular, he has to refer the matter to the Labour Minister who may or may not be available immediately. It is well known that Ministers are going about the country trying to meet the violent situation which is spreading all over the State, and also, they are frequently visiting Delhi. It may be days before the officer-in-charge can get into contact with the Labour Minister. Therefore, although he has a right under section 54 of making an arrest of persons whom he plainly sees committing a cognisable offence then and there, he cannot arrest them until the Labour Minister directs him to do so. *This is entirely violative of the Code and constitutes the addition of provisions to it which are not there.* Let us next take section 127. If the officer-in-charge finds that there is an unlawful assembly or an assembly of five or more persons likely to cause a disturbance of the public peace, then under section 127 he can at once take steps to disperse the same. The learned Advocate-General has pointed out that this power is discretionary. I will assume that this is so, but let us take the case where the officer-in-charge has found that there is an unlawful assembly or an assembly as mentioned in section 127 and he wants to use his discretion in favour of dispersing the same. Under the law, he is not liable to take directions from anybody and yet the circular

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adds to the law or else is violative of it, because it says that the officer-in-charge cannot do so without first referring the matter to the Labour Minister. *Apart from the very impracticable course of laying down that such an urgent action can be taken only upon reference to the Labour Minister who, as I have pointed out, may not be available for days, the point is that the circular lays down a fetter which is not to be found in the law.*

Therefore, what it lays down is clearly violative of the provisions of section 54 or 127 of the Code. In course of the argument, we expressed a doubt as to whether the provision for obtaining the direction of the Labour Minister was in accordance with the Constitution. According to Article 154 of the Constitution the executive Government vests in the Governor. Under Art. 163 the Council of Ministers is to advise the Governor in the exercise of his functions. Under Article 166, the Governor by making rules known as 'Rules of business' may delegate his power to the Ministers. The various Ministers are given separate portfolios. For example, the Chief Minister is now in charge of the Home and Political Department. This is separate from the Labour Department which is under the Labour Minister. The Ministers together constitute the cabinet and there is joint responsibility. According to the rules of business, the cabinet has got definite functions. It is the cabinet alone which can lay down policy. The Chief Minister may refer any matter within the jurisdiction of a particular minister to the cabinet. Where a matter involves two or more ministers, the matter can be referred to the cabinet. A cabinet decision is to be executed by the Secretary. In this case, we are concerned with the Home and Political Department, because the directions to be given are to the police, which is under the Home and Political department. *It seems to be very doubtful whether the cabinet can give direction that a matter coming within the jurisdiction of one Ministry must always be performed, after reference to another Ministry. The original delegation is by the Governor to the Ministers. There can not be a redelegation.* The direction in the circular that a matter which appertains to the Home and Political Department must always be performed upon reference to a Minister in charge of another Department, namely Labour, does not appear to me to be legal. If this is possible then the delegation by the Governor can be

wholly defeated. The cabinet may say that all matters relating to the Home and Political Department must be done according to the instructions of the Minister for Public Works. This would destroy the delegation by the Governor. It is not however necessary for us to pronounce a final opinion on this point because the ground that I have mentioned above is quite sufficient to make the circular invalid.

*I prefer to rest on the ground that the provisions of the circular are contrary to certain provisions of the Code and add burdens which are not to be found in the Code and is therefore invalid and can not be allowed to remain operative. Legislation cannot be made by cabinet decision, so its decisions cannot be allowed to affect it.* In my opinion, this ground is a sufficient reason why this circular should be declared illegal and contrary to law. I shall now come to the *second circular dated 12th June 1967*. This circular was issued after the interim injunction was passed by this Court, in an earlier application. I am of the opinion that *this circular is nothing but an attempt to continue the effects of the first circular, the implementation of which had been stayed, by casting it in a different language and trying to make it look inoffensive.* Firstly, it will be observed that it does not state that the first circular was either superseded or suspended. We are informed by the learned Advocate-General that on the 3rd June 1967 a direction was issued upon every one concerned to the effect that the first circular stood suspended pending the court proceedings. No particulars have been given in the affidavits in any of the proceedings about any such communication. I will deal with the obscure description — 'legitimate labour movements' used in the circular presently. Since it is not disputed, I will assume that it means 'legitimate trade union activities' as the learned Advocate-General suggests it to be. He argues that this is a harmless communication stating that lawful trade union activities on the part of labour were not to be interfered with, but where there was any unlawful activities in connection with the same, then the police must make a preliminary enquiry to satisfy themselves that the complaint was bonafide before proceeding to make any further investigation as contemplated by law. This, he says, is permitted by law, because the police are not bound to act on wild informations or on any and every news that comes to their ears. In

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my opinion, the position is not at all as simple as he claims it to be. The circular says that when any complaint is made regarding unlawful activities in connection with 'legitimate labour movements' that is to say, a legally valid trade union activity, which would include an offence committed in connection therewith, the police, before taking 'any action provided under the law,' must make an investigation that the complaint has a basis in fact. He wishes us to add certain words to the circular, which will make the above quotation read as 'any action provided under the law, in respect of the making of investigations.'

It is not permissible for us to make any such addition. We must consider the circular as it stands. If 'any action' means what it says the learned Advocate-General admits that he is in difficulty. Let us see what those difficulties are. In section 154 of the Code, where a person goes to a police station and gives information regarding the commission of a cognisable offence, it is mandatory, and in this respect no discretion is given, that the officer-in-charge should reduce it to writing by him or by some one under his direction. It should then be read over to the informant and signed by him and the substance thereof entered in a book to be kept by such an officer. This is called a F.I.R. or First Information Report. That being the law we at once find that the second circular directs a departure from it. Where an information is given by a person of the commission of a cognisable offence to the officer-in-charge of a police station, he must no longer proceed at once to take down the F.I.R. as laid down imperatively under section 154, but must first make an investigation as to whether the complaint has any basis in fact. The word 'investigation' has been defined by the Code in sec. 4 (e) the relevant part whcreof is as follows:

'Investigation.— investigation includes all the proceedings under the Code for the collection of evidence conducted by a police officer.'

In *H. N. Rishbud v. State of Delhi A.I.R. (1955) S.C. 196* at 201 investigation under Ch. XIV of the Code has been described as follows:

'Thus under the Code investigation consists generally of the following steps: (1) Proceeding to the spot, (2) ascertainment of the facts and circumstances of the case (3) discovery and arrest of the suspected offender (4) collection of evidence relating to the commission of the offence which may consist of (a) examination of various persons (including the accused) and reduction of their statements to writing, if the officer thinks fit, (b) search of places or seizure of things considered necessary for the investigation and to be produced at the trial and (5) formation of the opinion as to whether on the material collected there is a case to place the accused before a Magistrate for trial....'

The learned Advocate-General says that no investigation was intended to be made, but merely a preliminary inquiry. Firstly that is not the words used. The word 'Inquiry' has been separately defined in the Code (4k). In any event, no preliminary inquiry is provided for in the Code of when a personal complaint is made at a police station, as a preliminary to taking down the F.I.R. The direction is, therefore, violative of section 154 of the Code. In the course of argument the learned Advocate-General said that in some cases information was given over the phone and by telegram. It is only in a few cases that letters were written. He argued that any information given on the telephone or telegram did not constitute a F.I.R. See *Public Prosecutor v. Chidambaram & Anr.* A.I.R. (1928) Mad. 791, and *Kachi Hazam v. Seraj Kahan* A.I.R. (1935) Cal. 403.

I think that much of what has been said in these judgements have now become archaic. One of them describes a telegram as no more than 'village gossip.' However, for our present purposes, it is unnecessary to differ with these cases. I will confine myself to the case where a person actually goes to the police station and gives information of the commission of a cognisable offence. If the circular violates the provision of section 154 in such a case, it must be held to be violative of the law. Under section 154, if a person goes to a police station and gives information of the commission of a cognisable offence, then the F.I.R. must at once be taken down. In fact postponing taking down of F.I.R. and making an investigation before this is done has been repeatedly said to be illegal and not warranted by law. In

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Emperor *v.* Kampukuki and anr. 11 C.W.N. 554, the facts were as follows: A, finding his brother M to be missing gave information to the Sub-Inspector of the police, but the latter did not record it under section 154 of the Code. Nevertheless he commenced investigation and after four days when the matter had so developed that there was some reason to believe that M. had been murdered, he for the first time recorded a statement as a first information. It was held by a Division Bench of this Court that such a practice was altogether contrary to the provisions of Section 154 and a statement recorded under such a circumstance cannot be recorded as a first information. The court said:

'Such a practice is altogether contrary to sec. 154 of the Code. The first information if recorded as directed by section 154 at the time when it is made is of considerable value at the trial because it shows on what materials the investigation commenced and what was the story then told.'

Any statement recorded as in this case several days after the commencement of the investigation and after there had been some development, is not only no first information but was of very little or no value at all as the original story because it can be made to fit into the case as then developed.'

There are numerous cases upon this point which is not necessary to state here. *It is plain therefore that a blanket direction that whenever a complaint is made, even of the commission of a cognisable offence, in connection with any trade union activity, the officer-in-charge must first make an investigation into the complaint and satisfy himself that it is based on fact before taking any action whatsoever, is violative of section 154 of the Code.*

I now come to section 157 of the Code. According to this section, where the officer-in-charge of the police station receives information or even otherwise has reason to suspect the commission of an offence which he is empowered under section 156 to investigate, that is to say a cognisable offence, his duty is to forthwith send a report to the Magistrate and to proceed or to depute somebody to proceed to the spot to investigate the facts and to take measures necessary for discovery and arrest of the offender. I posed a question to the learned Advocate-General as to whether it is the same thing to say that a person has reason to

'suspect' the commission of an offence and that he is satisfied that it has a basis in fact. He has not been able to dispute that they are different. Under section 157, all that is necessary is that from the information received or otherwise, the officer-in-charge must have 'reason to suspect' that a cognisable offence has been committed. But the circular requires him to investigate as to whether the information received from a complaint has any basis in fact before he can take any further action. I will give an example. A man who lives as a recluse is visited from time to time by his only nephew who is a shady character. The man is found murdered. The officer-in-charge may have reason to suspect that under the circumstances, the nephew has committed the murder. But if it is a question of being satisfied that there was a basis in fact, he would have to find out as to which other persons visited him, whether he paid a visit at or near the time when the murder was committed, whether there was any motive, for example whether the nephew was likely to inherit the estate of the deceased, whether he was in stringent financial circumstances etc. etc. It is only these investigations that will convince him that there was a basis in fact in the complaint against the nephew of having committed the offence. These are two entirely different things. Let us take a concrete case. The officer-in-charge receives certain information. He is not satisfied that it has a basis in fact, but from the information received, he has reason to suspect that a certain person is guilty of a cognisable offence which he can investigate under section 156. It is his duty at once to act under section 157 and to take the steps mentioned therein, namely to forthwith send a report to the magistrate, to proceed to the spot and make investigation and to discover and to arrest the offender, if necessary. But the circular prohibits him from doing so. The learned Advocate-General has drawn our attention to the proviso. But even under the proviso, all that is said is that if the officer-in-charge sees no sufficient ground to enter into an investigation he shall not investigate the case, but even in such a case he must give a report to the magistrate. The proviso makes the circular even more unlawful, because it makes an investigation compulsory, while the second proviso grants a discretion. Even where the officer-in-charge wishes to exercise his discretion in favour of the complaint, he cannot do so. *It is clear therefore that the second circular is violative of the provisions of section 157 of*

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*the Code.* Even if a discretion is granted under it, the circular takes away that discretion. *I am also, by no means satisfied that apart from police officers, the circulars did not attempt at interference with the duties and powers of magistrates.* In the circular dated 12th June 1967, it is expressly stated that all officers connected with the maintenance of law and order should not interfere in legitimate trade movements. Both the circulars were addressed to 'District Officers,' and it is quite clear from the materials placed before us that they included all district magistrates. It is reasonable therefore to think that, when an application is made under Section 100 of the Code complaining that a person has been wrongfully placed under confinement, still the magistrate is required by the circular to sit down and consider whether he was interfering in a 'legitimate labour movement,' and also to ask the police to make an investigation into the facts before he can make any order, while the Section empowers him to issue a search warrant straightway if he himself has reason to believe that a person has been confined under such circumstances that the confinement amounts to an offence. I am glad however to note that no magistrate has so far needed any such direction and that search warrants are being readily issued and remain the most effective antidote to these lawless gheraos. *However, the possible mischief which the circulars might occasion if not struck down must engage our anxious consideration. It would be shocking if ministers are allowed to issue circulars to control the judicial duties of magistrates. That would be the end of all constitutional government.*

*I have no doubt in my mind that the beautifully vague wordings of the second circular dated 12th June 1967, was an attempt to maintain the mischief of the earlier circular dated 27th March 1967, without making it appear that the interim injunction of the 8th June 1967 was being violated.* As I have mentioned above, the expression 'legitimate labour movement' is meaningless in the context in which it appears. Even before us learned counsel admitted that it meant 'legitimate trade union rights,' and nothing more. Even that is a complex branch of the law. *Did the State Government think that an officer-in-charge of a police station was competent enough to decide as to what was a 'legitimate labour movement' or was likely to have sufficient knowledge of what constituted an unlawful act under it?* On the contrary,

*it must have been thought that this kind of a vague expression would mean that no officer-in-charge would take the risk of interfering in a gherao, which was claimed by its perpetrators to be a legitimate labour movement, a claim backed by the Labour Minister. It was doubtless thought that by such an insidious manoeuvre, the paralytic effect of the first circular would be kept up, without there being an open contempt of the order of the Court.* In fact this object was fulfilled, because the paralysis has continued. I now come to the Constitutional provisions. The first Constitutional provision mentioned above is Article 19 (i) (d). But as Article 19 remains suspended during the period of emergency, which is still in operation, it would be futile to discuss the point. The next Article mentioned is Article 14 which provides for equality before the law and which strikes down discrimination. It provides that there shall be equality of laws and the equal protection of the laws. While normally it applies to laws, it can also be made applicable to executive fiat. This appears from a decision of the Supreme Court—*Bidi Supply Co. v. Union of India A.I.R. (1956) S.C. 479*. The relevant facts in that case were as follows:

Section 64 of the Income Tax Act 1922 enjoins that an assessee shall be assessed by the Income Tax Officer having jurisdiction over the area where he resides or carries on business. Section 5 (7A) provides that the Commissioner of Income Tax may transfer any case from one Income Tax Officer subordinate to him to another. What happened was that the appellant carried on business in Calcutta and was always assessed by the Income Tax Officer Dist. (III) (I) Calcutta. By an order, purporting to be made under section 5 (7A), all his cases were transferred to the Income-tax Officer Ranchi. It was held that this order was bad. S. R. Das, C.J. said:

'It is enough for the purpose of this case to say that the omnibus order made in this case is not contemplated or sanctioned by sub-sec. (7A)... The income-tax authorities have by an executive order, unsupported by law, picked out this petitioner and transferred all his cases by an omnibus order unlimited in point of time. This order is calculated to inflict considerable inconvenience and harassment on the petitioner.... Therefore the reality of the discrimination cannot be gainsaid. In

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the circumstances this substantial discrimination has been inflicted on the petitioner by an executive fiat which is not founded on any law and no question of reasonable classification for purposes of legislation can arise. Here the 'State' which includes its income tax department has by an illegal order denied to the petitioner as compared with other Bidi merchants who are similarly situated, equality before the law and the equal protection of the law and the petitioner can legitimately complain of an infraction of his fundamental right under Art. 14 of the Constitution.'

*Coming back to the facts of the instant case, we find that the executive government by an executive fiat, has determined that the managerial and other staff of an industrial establishment when subjected to a gherao, which involves the commission of several cognisable offences like wrongful restraint, wrongful confinement, criminal trespass, assault etc. will be subjected to a different procedure in law than any other person or persons subjected to the same.*

While, in all other cases, the Police must act in accordance with the Criminal Procedure Code and the relative Police Acts applicable, in their case no action is possible except under the direction of the Labour Minister. *There is therefore a clear discrimination, because such persons who have been illegally gheraoed do not constitute a separate class, to whom the ordinary law should not be applied.* This is of course quite apart from the fact that the executive government had no right to pass orders which are contrary to the law, as was also the position in the Bidi Supply case (*supra*.)

*It has been clearly established that there can be discrimination both as regards the substantive law as well as in procedure, see Budhan Chaudhury v. State of Bihar A.I.R. (1955) S.C. 191. In Bahseshar Nath v. I.T. Commissioner A.I.R. (1959) S.C. 149, an order of the I.T. Commissioner was struck down as violative of Article 14. S. R. Das, C.J. said as follows:*

'Coming now to the language of the Article it must be noted first and foremost that this Article is, in form, an admonition addressed to the State and does not directly purport to confer any right on any person as some of the other Articles, e.g. Art.

19 do. The obligation thus imposed on the State no doubt ensues for the benefit of all persons, for, as a necessary result of the operation of this Article, they all enjoy equality before the law. That is, however, the indirect though necessary and inevitable, result of the mandate. The command of the Article is directed to the State and the reality of the obligation thus imposed on the State is the measure of the fundamental right which every person within the territory of India is to enjoy. The next thing to notice is that the benefit of this article is not limited to citizens, but is available to any person within the territory of India. In the third place it is to be observed that, by virtue of Art. 12, 'the State' which is by Art. 14 forbidden to discriminate between persons includes the Government and Parliament of India and the Government and the Legislature of each of the States and all other local or other authorities within the territory of India and under the control of the Government of India.

Article 14 therefore, is an injunction to both the legislature as well as the executive organs of the State and the other subordinate authorities.... It is not necessary for the purposes of this appeal to consider whether the executive order is a 'law' within the meaning of Art. 13, our right to the equal protection of the law is protected against the vagaries, if any, of the executive Government also. In this connection the observations of Lord Atkin in *Eshugbaji Eleko v. Officer Administering Government of Nigeria* (1931) AC 662 are apposite. Said his lordship at page 670 that according to British jurisprudence no member of the executive can interfere with the liberty or property of a British subject except when he can support the legality of his act before a Court of justice. That apart, the very language of Art. 14 of the Constitution expressly directed that 'the State' which by Article 12 includes the executive organ shall not deny to any person equality before the law or the equal protection of the law. Thus *Article 14 protects us from both legislative and executive tyranny by way of discrimination.*

In a recent case, *Satwant Singh Sawhney v. Asst. Passport Officer A.I.R. (1967) S.C.* the Supreme Court has held that what a legis-

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lature cannot do the executive could not do and executive discrimination is also bad. Also the Court said:

'Article 14 says that the State shall not deny to any person equality before the law or equal protection of the laws within the territory of India. This doctrine of equality before the law is a necessary corollary to the high concept of the rule of law accepted by our Constitution. One of the aspects of rule of law is that every executive action, if it is to operate to the prejudice of any person, must be supported by some legislative authority.'

In my opinion, therefore, *the two impugned circulars are violative of Article 14 of the Constitution, and we are not precluded from granting relief, merely because they are executive directions or orders and not legislative or judicial."*

\* \* \*

*In disposing of some preliminary objections raised by the Advocate-General the learned Chief Justice said :*

"The next objection taken is that neither of the impugned circulars are judicial or quasi-judicial acts and therefore, a writ of certiorari does not lie. So far as the form of relief is concerned, it has now been held in *Dwarka Nath v. Income Tax Officer, Special Circle, D. Ward, Kanpur and Anr. A.I.R. (1966) S.C. 81*, that Article 226 of the Constitution is couched in comprehensive phraseology and its ex-facie confers a wide power on the High Court to reach injustice wherever it is found. The High Court cannot only issue writs in the nature of prerogative writs as understood in England, but also issue directions, orders or writs other than prerogative writs. The High Court can mould the relief to meet the peculiar and complicated requirements of this country."

\* \* \*

'I think, that there is no difficulty in striking down the circulars, although they are administrative orders. In the instant case, the complaint is that Government has disregarded the provisions of law in issuing the two impugned circulars and

was interfering with statutory provisions, without the slightest justification in law. The test for interference is therefore passed."

*Argument of an alternative remedy*

"The next preliminary point taken is that there existed an alternative remedy and therefore an application in the writ jurisdiction did not lie. It is settled law than an application in the writ jurisdiction will not be entertained if there exists an equally efficacious and adequate remedy at law. It is argued that the alternative remedy is contained in section 100 of the Criminal Procedure Code. This relates to the issue of a search warrant by a magistrate. I fail to see how this is an alternative remedy at all. The law enjoins that the officer-in-charge of a police station, upon information being lodged or received or otherwise, should act in a particular manner for preserving law and order, giving instant relief to those who are the victims of its violation and for the prevention of crimes. Magistrates have been allocated their own and separate powers and duties but these are not alternative methods. They are completely separate, and are mostly in the nature of judicial powers. These two functions may be supplementary but are not in the alternative. Let us visualise the case of a manager of an industrial unit, suddenly encircled by a hostile group of workers several hundreds strong, shouting insults, cutting off all egress and ingress from or to his office, assaulting him, cutting off electricity and telephone and also exercising various acts of torture. In such a situation is he expected to calmly sit down, frame a petition of complaint to the magistrate to issue a search warrant, engage a lawyer to move it, take the order of the magistrate to the police and get himself rescued. No sensible person would suggest that he is in a position to do so or that it affords him an adequate alternative remedy. Besides, it has been held that where a fundamental right has been affected, the existence of an alternative remedy is no bar to a writ application, see *The State of Bombay v. The United Motors (India) Ltd.* A.I.R. (1953) S.C. 252 and *Himmatlal v. State of M.P.* A.I.R. (1954) S.C. 403. In Himmatlal's case it was also held, as in the instant case, that the alternative remedy was too onerous and therefore not adequate. Police action is immediate and also preventive, it cannot always

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be supplanted by magisterial orders which involve delay, and a more elaborate procedure. Thus it is not an alternative remedy which is always equally efficacious or adequate."

\* \* \*

"In A. V. Venkateswaran *v.* Ramchand A.I.R. (1961), the Supreme Court held that the proposition that an alternative remedy is a bar to the exercise of the writ jurisdiction was not correct. There were no inflexible rules on the subject. The matter was one of discretion and in a matter so pre-eminently one of discretion, it is not possible, or even if it were it would not be desirable, to lay down any inflexible rule which should be applied with rigidity in every case which comes up before the Court. Also see Union of India *v.* T. R. Varma A.I.R. (1957) S.C. 882 and State of Uttar Pradesh *v.* Noor A.I.R. (1958) S.C. 86. *The present case involves the question of executive authority exceeding their jurisdiction and passing illegal orders. The matters are such as affect the interests of the public at large and raise questions of immense public importance. So, even if other remedies were available, this Court should not throw out the application upon that ground alone.*"

### *The Findings*

*The learned Chief Justice then proceeded to summarise the Court's findings as follows :*

"(1) The relationship between labour and management, in India has undergone a tremendous change in the last four decades. India has to an extent lined herself up with the progressive views adopted in this respect in England and America and many other Western countries.

(2) Today, organised labour and collective bargaining are recognised forces in a modern State.

(3) This end has been principally achieved by recognising the right of labour to organise itself into registered trade unions, and by such Unions asserting the rights of organised labour by means of inducing beneficial legislation, mutual insurance and collective bargaining, as also by the use of recognised methods

like strikes, picketing and peaceful demonstrations, in aid of their demands.

(4) The old law of master and servant has ceased to govern the relationship of labour and management. Today such relationship is governed, either by industrial or labour legislation, or by mutual agreement between the parties. The Government is no longer actuated by a policy of laissez-faire, in such matters.

(5) *It is however a mistake to think that the rights acquired by labour are unrestricted. As long as the State permits industry to be carried out by the employment of private capital, it has to respect the conditions under which such capital can be deployed and has to look after the interest of both labour and the management.*

(6) In western countries, the trade-union laws are far more advanced because the norms under which industry operates are far more advanced. There cannot be identity of laws between rich nations like England and America and a poor nation like India, which is only on the threshold of an industrial revolution.

(7) *But there is one common thread between the trade union laws of the West, and the law in India. Both draw the line at violence, intimidation, and the violation of the law relating to crimes.*

(8) In India, the law relating to crimes is principally contained in the Indian Penal Code, the Criminal Procedure Code, the Police Acts and several provisions contained in industrial laws like the Industrial Disputes Act 1947, which have declared certain acts to be unlawful acts or offences attracting penal punishments.

(9) The Indian Trade Unions Act 1926, has provisions exempting liability of the members of a trade union, both civil and criminal.

(10) Section 17 of the Act exempts members of a trade union from being charged with the offence of criminal conspiracy where the agreement is for the furtherance of any of the objects mentioned in section 15.

(11) But there is a blanket provision in Section 17 that an agreement to commit an offence is not exempted.

(12) Section 18 gives immunity from civil liability in certain cases. No officer or member of a trade union is liable for any act, on the ground only that such act induces some other person

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to break a contract of employment or that it is an interference with the trade, business or employment of some other person or with the right of some other person to dispose of his capital or of his labour as he wills.

(13) Where Section 7 of the Criminal Law Amendment Act is applicable, molestation, violence or intimidation, loitering and persistently following a person have been declared as offences. These are usually connected with the act of picketing.

(14) There are no express provisions in the Trade Unions Act regulating strikes or picketing, but these are recognised weapons in the armoury of labour. The word 'strike' in its broad significance has reference to a dispute between employer and his workers, in the course of which there is concerted suspension of employment. In strike, employment relations continue but there is a state of belligerent suspension.

(15) There are many varieties of strikes, e.g. stay-in strike, tool-down strike, pen-down strike etc. But *there is no provision in law which exempts a workman taking part in a strike from the criminal laws of the land, excepting section 17 of the Trade Unions Act and no exemption from civil liability except section 18 of the said Act.*

(16) *Neither section 17 or 18 of the Trade Unions Act, exempts a workman, if he commits an 'offence,' which means, an offence under the criminal laws of the country, save and except the limited ground upon which he is exempted from being charged with criminal conspiracy under section 17.*

(17) Any act of violence which amounts to the commission of an offence is never excused. An agreement to commit an offence is expressly excluded from the purview of section 17.

(18) *A 'Gherao' is the physical blockade of a target, either by encirclement or forcible occupation. The 'target' may be a place or a person or persons, usually the managerial or supervisory staff of an industrial establishment. The blockade may be complete or partial. If it is accompanied by wrongful restraint and/or wrongful confinement, or accompanied by assault, criminal trespass, mischief to person or property, unlawful assembly and various other criminal offences, used as a coercive measure to controllers of industry to force them to submit to the demands of the blockaders, such a gherao is unconstitutional, that is to say, violative of the provisions of the Constitution, and unlawful, that is to say, violative of the laws of the land. In the instant case we are not*

concerned with a peaceful gherao but with a gherao of the latter kind.

(19) A 'gherao' is not an offence as such, mentioned in the Indian Penal Code. But, it is an act indulged by labour against the management and *where it is accompanied by confinement, restraint or other offences under the criminal law of the land, the fact that it is done by members of a trade union, and used as an instrument of collective bargaining, gives rise to no special treatment or exemption from liability under the law.* All workmen, guilty of wrongfully restraining any person belonging to the management, or wrongfully confining him, during a gherao are guilty under section 339 or 340 of the Indian Penal Code and have committed cognisable offences for which they are liable to be arrested without warrant and punishable with simple imprisonment for a term which may extend to one month or with fine which may extend to five hundred rupees or with both; for wrongful restraint for imprisonment of either description for a term which may extend to one year or with fine which may extend to one thousand rupees, or both; for wrongful confinement, where the confinement extends to three or more days the punishment is imprisonment of either description for a term which may extend to two years or with fine or with both. Where the confinement is for ten or more days the punishment is imprisonment of either description for a term which may extend to three years. There is a further liability to fine. Where there is a concerted intention to commit an offence, it amounts to criminal conspiracy under Sec. 120A of the Indian Penal Code and is not saved by Sec. 17 of the Trade Unions Act 1926.

(20) Where other offences are committed they are punishable with various terms of imprisonment and fine or with both.

(21) The police have the duty under the law to prevent the commission of crime, to apprehend those as are guilty of its commission and to preserve law and order as provided in the Criminal Procedure Code and the various Police Acts which are applicable in a given case.

(22) The magistracy has functions in relation to the preservation of law and order and the apprehension of criminals and dealing out punishment, as are contained in the Criminal Procedure Code or other laws.

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- (23) The Government in India is based on the Constitution.
- (24) The Constitution has vested the government of the land in three separate bodies, the legislature, the judiciary and the executive.
- (25) The legislature is entrusted with the making of the laws, in accordance with the limitations imposed by the Constitution.
- (26) To be valid, all laws must pass the test of constitutionality.
- (27) The judiciary is entrusted with the interpretation of the laws, the administration of laws in Courts, and the determination as to whether laws have been transgressed and what punishment is to be meted out to the transgressor.
- (28) The residuary power is vested in the executive government, which must govern according to the laws.
- (29) The Constitution of India is based on the 'Rule of law,' which means that the law is paramount, that it must be administered alike to all persons high or low, that no one is outside its purview and the executive authority must be prepared at all times to show to the Courts that they have acted in accordance with the law.
- (30) The criminal law of the land is principally contained in the Indian Penal Code and the Criminal Procedure Code. The former lays down the substantive law and the latter the procedural law. There are Police Acts which are applicable in various jurisdictions. Various other Acts have declared the commission of certain acts to be penal offences.
- (31) It is the legislature alone that can make law. The Courts alone have jurisdiction to interpret it and declare its true purport and meaning.
- (32) *Once the laws are made, whether substantive or procedural, neither the Governor, nor the Cabinet, nor the ministers, nor a subordinate executive authority has the power to add to or detract from its content, to interfere with its working or to affect any discretionary power given under it, unless such power is clearly granted under the Constitution or the laws.*
- (33) Where, any such authority purports to exercise such power or do any act, in excess of jurisdiction, any person whose legal right is affected may come to the writ Court and the writ Court will strike it down.
- (34) *The exercise complained of may be an executive fiat or administrative order. But where it is in excess of jurisdiction, or*

*contrary to law or malafide or fraudulent or in colourable exercise of power, the Court has ample power to strike it down.*

(35) The exercise of power by the High Court under Article 226 of the Constitution, is not restricted by the artificial rules regarding the issue of high prerogative writs by the Court of King's Bench in England. It can issue such writs or give such orders or directions in such form as are necessary to do complete justice between the parties.

(36) *Where there is an alternative remedy at law, which is equally efficacious, the writ Court does not usually grant relief, but there is no inflexible rule in that respect and there is no absence of jurisdiction; where however, there is a violation of the fundamental rights guaranteed by the Constitution, the Court is bound to grant relief and the existence of an alternative remedy is irrelevant.*

(37) *Where there is a gherao, accompanied by the commission of an offence, (e.g. wrongful confinement), the executive government has no power to give directions, pass orders or issue circulars to the police or the magistracy to the effect that the procedure to be followed by them should be in any way different from or at variance with, what has been laid down by the Criminal Procedure Code or the Police Acts or any other law governing such procedure.*

(38) A direction that, in the case of gherao with wrongful confinement which is a cognisable offence under Section 340 of the Indian Penal Code, no action should be taken by the police except after obtaining direction from the labour minister, is utterly unlawful and not warranted by the law, to give directions to the police before taking action, where such an offence has been committed or is said to have been committed. *The action that the police or magistrate shall take under such circumstances is provided for in the Criminal Procedure Code and the relative Police Acts. By executive fiat, such procedure cannot be altered or supplemented or varied.*

(39) What is legitimate trade union law, is contained in the Trade Unions Act, 1926. Neither section 17 nor 18 of the said Act exempts a person who commits an offence under the criminal laws, save and except under section 120A of the Indian Penal Code, under circumstances mentioned in section 17, from being proceeded against according to law.

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(40) *There is no special procedure that should be adopted when an offence is committed by members of a trade union, even in an attempted enforcement of their power of collective bargaining. The procedure applicable is the ordinary procedure to be adopted in the case of such infraction outside the Trade Unions Act. The executive government has no power jurisdiction or authority to add to or detract from such laws or give executive directions that the procedure should consist of any kind of special investigation which must be done at a stage not contemplated by the Criminal Procedure Code.*

(41) *The precise moment when the police or the magistracy should act, the way they should act, the procedure they should follow when an offence has been committed or is said to have been committed or is apprehended, is laid down by law. The executive government, in the absence of a legal provision, has no jurisdiction to add to or detract from the same or direct any variation thereof or inhibit or delay the implementation of the same, in accordance with law. Where there is any attempt to do so, the Court will strike it down.*

(42) *The two circulars dated 27th March 1967 and 12th June 1967, mentioned above are contrary to law, without jurisdiction and must be declared to be invalid and be quashed.*

(43) The circulars being out of the way, the police and the magistracy must act as if they had never been issued. No direction of any minister need be obtained before taking action according to law, when such action is prescribed under the Criminal Procedure Code, or the law relating to crimes.

(44) Under Section 154 of the Criminal Procedure Code, when information is given relating to the commission of a cognisable offence at a police station, the officer-in-charge is bound to take immediate steps as mentioned therein. Where, from information received or otherwise, an officer-in-charge of a police station has reason to suspect the commission of an offence which he is empowered under Section 156 to investigate, he shall forthwith act in the manner mentioned in Section 157.

(45) *Inaction on the part of the police who are the guardians of law and order is reprehensible; even where a discretion is given, it must be exercised reasonably and with due regard to the fact that complaints of the commission of a criminal offence is a compulsive matter and it is not open to the police to act or not to*

*act according to their sweet will and arbitrarily. It would be the end of all constitutional government if the Police were called upon to consider the political affiliation of either the complainant or the accused in a criminal case. They should not be so pusillanimous as to bow down to every unlawful order passed by the executive authority. If they act contrary to law or refrain from acting in accordance therewith they do so at their peril and will be answerable to the Courts. The duty of the police is not only to promptly answer to a complaint alleging the commission of an offence, but it is their duty to prevent the commission of crimes; where they fail to do so, they may render themselves liable to certain penal provisions contained in the Code."*

### *The Intentions Behind the Circulars*

"Before I proceed to answer the questions raised, in the light of my findings stated above, I would like to deal with a matter referred to by the learned Advocate-General in his argument. He argues that if the Court comes to the conclusion that the circulars are unlawful, they may be struck down, but he invites us to hold that the Government issued them with the best of intentions, thinking them to be for public benefit. He points out that the ideology of different governments cannot always be the same. For example, the ideology of the Conservative and Labour Governments in England have not remained identical. Hence, if in the said circulars, emphasis has been shifted from management to labour, no adverse inference can be drawn. Secondly, he has urged that the Court cannot take any notice of newspaper reports, unless the same have been proved according to law. He cites a decision of the Supreme Court in *Nageswara Rao v. State of Andhra Pradesh A.I.R. (1959) S.C. 1376*. In that case, certain statements of the Chief Minister of Andhra as published in newspapers were relied on. What happened was that certain newspaper extracts were produced but no attempt was made to prove that the Chief Minister in fact made those speeches, although the Chief Minister did not admit having made them. It was held that, as no affidavit had been filed by any person who had attended the meetings addressed by the Chief Minister and heard him make such statements, the extracts could not be received in evidence. In the instant case, various extracts

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from the *Statesman* have been annexed to the petition. In the petition itself, it has been stated that from time to time orders and/or decisions and/or instructions have been issued by the Bengal Government as appear from such press reports.

The press reports contain references to various statements having been made by the Chief Minister or the Labour Minister. While the Chief Minister has never advocated violence or the deliberate withholding of the police, the Labour Minister Shri Subodh Banerjee is repeatedly reported to have said that he will not 'allow the use of the police' in case of labour agitations. In one instance he is reported to have said—'I have allowed a duel between the employees and the employers in West Bengal and the police has been taken out of the picture so that the strength of each other may be known.' It is a pity that the Labour Minister has not himself sworn an affidavit in this case admitting or denying whether he made such picturesque statements. But since I have no affidavits before me about the statements made by the Ministers, I think it would be wiser to ignore the actual words reported to have been said. We are however competent to take notice of the fact that it has by now become notorious that gheraos of the description as have taken place in this case have been happening widely in West Bengal and also of the part that is being played therein by the trade unions. We cannot shut our eyes to what is by now general information, that as a result of indiscriminate gheraos attended with violence, industry trade and commerce in West Bengal are coming to a standstill. Expansion of industrial undertakings have been stopped, industrial undertakings are closing one by one, and we have the dismal picture of thousands of workers being thrown out of work, just when the food situation has become perilous and prices have soared beyond the means of the common man. Instead of labour profiting by such movement, thousands of them are today on the verge of starvation. It is the lesson of history that whenever trade unionism has exceeded bounds and become militant, for example the Strikes in England in 1926 and the Civil Disobedience movement in 1932, when trade unions tried to take advantage of the same, there has been a retrogression in the forward march of trade unionism. Once again we are about to find history repeating itself. So far as the Ministers are concerned, we are prepared to concede that malafides on their part has not been established.

So far as the Chief Minister is concerned, although he seems to have used the word 'gherao' somewhat indiscriminately, even the press reports show that he has referred to peaceful gherao where all the workers were pursuing their legitimate trade union rights within the bounds of the law.

We have already held that as long as recognised trade union activities are indulged in peacefully and without committing an offence, there is nothing to complain, because it is permissible in law. *It is however different so far as the Labour Minister is concerned. Whether he was acting in ignorance of the law it is difficult to say, because rightly or wrongly the law presumes that every one is acquainted with the law. But if it is a question of whether what he did was done accidentally or deliberately, we are constrained to hold that from the materials placed before us, there can be no doubt whatsoever that whatever was done by him was done deliberately. I do not think that it is at all difficult in this case to pierce the veil and get at the truth."*

### *Stress on Lawful Remedies*

"Trade union leaders have never been satisfied with the rate at which workers' rights were evolving. All over the world, the rights of workers were very meagre to start with. When the Industrial Revolution took place in England, it was private capital which owned all the industries and law was moulded in their favour and as Government followed the doctrine of laissez-faire, the dice was loaded heavily against labour and in favour of the management. It is said however that a lot of water has flowed under the bridges in all the capitals of the world since 1834 when the 'Tolpuddle martyrs' were sentenced to transportation by the English court for the offence of 'illegal conspiracy of forming association of workers.' Today, organised labour is a recognised force in the modern State. In many western countries trade unions are treated virtually as the fourth estate of the realm and industrial labour properly functioning through trade unions can be one of the pillars supporting the State in any programme or policy of industrial development. But all evolution must be gradual and a sudden metamorphosis cannot be brought about by violence. It has never succeeded in the West and it can never succeed in India. The recognised weapons

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in the hands of organised labour, namely strikes, picketing etc., if carried out within legal limits are potent weapons in the hands of labour. What a few trade unionists in West Bengal have been trying to do is to jump the process of evolution and immediately bring to the worker more concession, more benefits, and much larger rewards than even their counterparts in rich western countries have managed to achieve.

It is a simple proposition that the more advanced an industry is, the greater the production, the larger is the share of labour in the profits. The impatient trade unionists, however, have completely lost sight of this. They are not interested in the development of industry or an increase in its profits. All that they want is an immediate increase in the share of labour in it, irrespective of the fact whether the larger demand can possibly be met by the industry or whether it would destroy it altogether. In Western countries, especially in America, trade unions make it their duty to see, not only that labour gets a proper share of the profits but also that conditions are created in which industry itself may thrive, leading to greater production and therefore, a greater share in the profits for labour, including a rise in wages, amenities, and improvement in conditions of service. In this country, trade unions consider it no part of their duty to think of the industry. They want by violent means to extort for labour, what according to them is their due. It must never be forgotten that we have labour laws. Every possible eventuality has been provided for in such laws. If it is thought by the trade unions that the labour laws are inadequate, or that they call for revision or improvement, then what should be done is to agitate for their amendment or repeal. If employers do not carry out the orders passed in industrial adjudications, there are procedures provided for their enforcement. A major complaint is delay in judicial determination of labour cases. Since it is said that it is happening in the highest judicial body, it shows that the difficulty, if any, is in the system. Probably it indicates the necessity of providing for more judges, more courts and more summary proceedings. To achieve this, there are constitutional methods and I fail to see how rights of workers will be improved by wrongfully confining a few managers and supervisory staff and beating them up. Even if there be some temporary advantages gained by gheraos, the effects cannot be lasting. The bad blood that will be generated will take de-

cades to drain. *There can be little doubt that encouragement from high quarters has resulted in a small group of militant trade unionists creating for themselves an enviable notoriety which they would otherwise not have achieved. Emboldened by such encouragement, they have become successful in rendering the forces of law and order ineffective, so that they could with impunity use violent methods against the management and terrorise them into submission. Thus, a small group of determined and violent men are holding up the whole industrial world to ransom.* There is no doubt in my mind that the Labour Minister has deliberately assisted in the spread of this evil in the industrial world, and the two impugned circulars are in aid of it. Before the present government took office, the main obstacles in the way of this violence were the police and the magistracy, who were responsible for the keeping of law and order in the country. *The impugned circulars are a crude attempt to immobilise the forces of law and order so that the owners and managers of industries can be confined, restrained, assaulted and tortured with the result that they may be compelled to accede to the demands of labour, however unreasonable they might be.* It is however forgotten that such crude methods are likely to destroy industry itself and in order to enrich one at the cost of another what is being done is to kill the whole organism."

### *The High Court Gheraoed*

"Before I conclude, I have to relate with great regret and a feeling of horror, certain things which took place in this Court while we were actually hearing the gherao cases. *While hearing arguments to the effect that gheraos did not exist in West Bengal, or if they existed at all, were peaceful and non-violent, we suddenly witnessed with astonishment the sight of a gherao taking place in the High Court itself.* Violent crowds invaded the precincts of the court and a band of organised demonstrators stood underneath our windows, shouting deprecatory slogans to the effect that the Constitution should be scrapped, that gheraos will continue whether the court decrees it or not and various other slogans which need not be repeated here. Things came to such a pass that I had to adjourn the court and to get in touch with the Chief Minister and to tell him that if this sort of thing

continued I would close the courts *sine die*. I record with pleasure that the Chief Minister at once took steps to protect the courts from such unseemly invasions, but it has been found necessary to keep a large posse of police to prevent another breach of the peace. Orders under section 144 had to be promulgated in the roads surrounding the High Court. *Such a thing has never happened in this Court during its hundred years of existence, and I do not think it has happened anywhere else in India.*

We have, therefore, had a visual demonstration of what a gherao means and what it can achieve. *If a group of militant trade unionists could dare to terrorise the courts in this fashion, it can well be imagined as to the depths to which we have been degraded and to the utter helplessness into which industries have been thrown, as a result of these lawless activities.* The learned Advocate-General said that it was a small group of people dedicated to violence that seemed to be at the root of all the troubles that are taking place and not the government. *But this is the inevitable result of fostering violence and there is little to marvel in it.* I may recall the story of the thirsty desert-traveller in the Arabian Nights who picked up a bottle and thinking that it contained life saving water opened the bottle and out of it emerged a huge genie which threatened to eat him up. If I remember the facts aright, the traveller did not find it so very easy to get the genie back into the bottle. *The least we can do therefore is to strike down the offending circulars, hoping that it might strengthen the instruments of law and order and help in the re-establishment of peace in this unfortunate land."*

#### *Exercise of the Public Conscience*

"The mere existence of a Constitution cannot assure liberty amongst men. As Judge Learned Hands has said, Liberty lives in the hearts of men and it is only when men really thirst for liberty that they will get it. So far as the Judges of this Court are concerned, we feel more pity than anger against those who vainly tried to terrorise us in the Court. I shall conclude with the words of Justice Douglas in his Tagore Law Lectures where he explained the matter succinctly:

*'The judiciary has no army or police force to execute its*

*mandates or compel obedience to its decrees. It has no control over the purse strings of government. Those two historic sources of power rest in other hands. The strength of the judiciary is in the command it has over the hearts and minds of men.* That respect and prestige are the product of innumerable judgements and decrees, a mosaic built from the multitude of cases decided. Respect and prestige do not grow suddenly; they are the products of time and experience. But they flourish when judges are independent and courageous. *The Court that raises its head against the mob may be temporarily unpopular, but it soon wins the confidence of the nation. The Court that fails to stand before the mob is not worthy of the great tradition.*

*The judiciary is in a high sense the guardian of the conscience of the people as well as of the law of the land . . . .*

*It is this public conscience that we have proceeded to exercise in this judgement of ours, hoping that it will contribute to the restoration of peace in West Bengal. In the gathering darkness I hope its voice shall be heard and obeyed."*

### *The Questions Answered*

"I now proceed to answer the questions as follows:

- (1) This issue has been answered in clause 18 of my analysis given above.
- (2) No.
- (3) The circulars dated 27th March, 1967 and 12th June, 1967, are unlawful and incompetent. We are not called upon to say anything about the Cabinet decisions.
- (4) Yes. We, however, hold that this was not a deliberate violation of the law as it is not unnatural for subordinate officials to carry out the mandates of their superiors, but in future they must act according to the law as laid down in our judgement.
- (5) So far as the last point is concerned, we make the following order:

The Rule is made absolute and we quash the two impugned circulars dated 27th March, 1967 and 12th June, 1967, and we

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issue a writ of Mandamus upon the respondents Nos. 1 to 7 restraining them from giving effect to the same.

The respondents Nos. 6 and 7 are directed to proceed in accordance with law, in conformity with the observations made in this judgement. An order of injunction is made restraining respondents Nos. 9 to 28 from interfering with the right of egress and ingress of the petitioners Nos. 2 to 7, from and to the office of the petitioner No. 1, situated at 26, R. N. Mukherjee Road, Calcutta.

"There will be no order as to costs."



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